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T H E
J U D G M E N T
O F W H O L E
K I N G D O M S a n d N A T I O N S,
Concerning the
R I G H T S, P O W E R a n d P R E R O G A T I V E
O F
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A N D T H E
R I G H T S, P R I V I L E G E S a n d P R O P E R T I E S
O F T H E
P E O P L E:
S H E W I N G,

The Nature of GOVERNMENT in general, both from GOD and MAN. An Account of the BRITISH Government and the RIGHTS and PRIVILEGES of the People in the Time of the SAXONS, and since the Conquest. The Government which God ordained over the Children of *Israel*; and that all Magistrates and Governors proceed from the People, by many Examples in Scripture and History, and the Duty of Magistrates from Scripture and Reason. An Account of Eleven Emperors, and above Fifty Kings deprived for their evil Government. The *Rights* of the People and Parliament of *Britain*, to RESIST and DEPRIVE their Kings for evil Government, by King *Henry's* Charter, and likewise in *Scotland*, by many Examples.

The Prophets and ancient *Jews* were Strangers to absolute PASSIVE-OBEDIENCE: Resisting of arbitrary Government is allowed by many Examples in Scripture, by most Nations, and by undeniable Reason.

A large Account of the REVOLUTION; with several Speeches, Declarations, and Addresses, and the Names and Proceedings of Ten Bishops, and above Sixty Peers, concerned in the Revolution before King *James* went out of *England*.

Several Declarations in Queen *Elizabeth's* Time of the CLERGY in CONVOCATION, and the PARLIAMENT who assisted, and justified the *Scotch*, *French*, and *Dutch*, in resisting of their Evil and Destructive Princes.

The TWELFTH EDITION, corrected.

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REF 13

T H E
C O N T E N T S.

¶ Paragraph 1 to 6.

THE nature of Government in general, both from God and man.

¶ 6. An account of the *British* government, and of the rights and privileges of the people, in the time of the *Saxons*, and since the conquest.

¶ 7. *Italy, Germany, Switzerland, England*, and the *Jews*, have been under divers forms of government.

¶ 8 to 17, included. True maxims of government.

¶ 18. The power of the crown only a trust.

¶ 20. *Britain* a mixed limited monarchy.

¶ 39 to 46, included. Describing the government which God ordained over the children of *Israel*.

¶ 46,

¶ 46, 47. The fundamental right of all nations asserted in the choice of their Governors, or forms of government.

¶ 48. *Cæsar* and *Tacitus's* description of the liberty and customs of the ancient *Britains* that they had no monarchs, but councils and magistrates.

¶ 49. Monsieur *Mezeray's* account of the manners of the ancient *Germans*: His mournful speech to a gentleman in King *William's* reign, of the miserable condition of the *French*.

¶ 50, 51, 52. The election of magistrates and kings proved to be in the people: But more particular in *Great Britain*, before and since the conquest.

¶ 53. The right of the people and parliament of *Britain* to depose their kings for evil government; proved from King *Henry's* charter, and from an act of the 12th of *Richard* the second, and by many examples.

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¶ 54, 55, 56. The power of our parliaments, by the 25th and 28th of *Henry the VIIIth*, and by the 13th of *Elizabeth*,

¶ 57. By a law, *An. 787*. Kings were to be elected by the parliament, or states,

¶ 58. *William* the first was admitted, upon conditions, by the people.

¶ 59, 60. The law superior to the King, from *Bracton*, a famous lawyer in *Henry the Third's* time.

¶ 61. The power of the King, by the laws of *Edward the Confessor*,

¶ 62. *William Rufus*, *Henry* the first, and *Stephen*, were chosen by the people ; and *Henry* the fourth, fifth and sixth, were Kings, only, by act of parliament.

¶ 63, 64. The compact with *William*, called *the Conqueror*, *Henry* the first, and *Stephen*.

65. The original compact with our Kings.

¶ 66. Succession gives no right to Kings, but according to the original compact.

¶ 67.

¶ 67. The excommunication and curse, made by King *Henry* the third, the nobility, &c. upon all the infringers of *Magna Charta*.

¶ 68. *Magna Charta* only an abridgment of our ancient laws and customs.

¶ 69, 70, 71. The nobility and parliament of *England* assert the laws and liberties of *England*.

¶ 72. King *James's* speech, *An. Dom.* 1609, declaring the obligation of a king.

¶ 73, 74. The common right of the subject, declared by several ancient lawyers.

¶ 75, 76, 78, 79. Our kings, and their power from the laws, declared by several famous lawyers, and by several acts of parliament.

¶ 77. Six judges, with the king's serjeant at law, and one of the king's council at law, were condemned by parliament, and executed for giving their opinions contrary to law, in *Richard* the second's time.

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¶ 80. King *Henry* the VIIIth acknowledged the power of the parliament.

¶ 81. The judges of the land, not to obey the King contrary to law, under the penalty of treason.

¶ 82. The rights and liberties of the subject from the act of the 1st of *William* and *Mary*, in 13 articles, with a clause excluding a *Po-pish* prince, or any marrying a *pa-pist* from the throne.

¶ 83, 84. All government, authority and magistracy, proceeds from the people, and they have authority to dispossess them, or alter the succession upon very urgent causes, of which some scripture instances.

¶ 85 to 100, included. Above fifty Kings, and eleven Emperors deprived for their evil government, in *France*, *Spain*, *Holland*, *Portugal*, *Denmark*, *Poland*, *Rome*, *Germany*, *Scotland*, and *England*.

¶ 101 to 107, included. All magistrates and governors proceed from

from the people, by many examples in scripture.

¶ 108, 109, 110. Reasons for resistance.

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¶ 112. St. Chrysostom's exposition on the 13th of Romans; Pindar, Orpheus, Plato, Aristotle, and Cicero, their description of just government, and of obedience to the laws.

¶ 113. No absolute authority allowed by scripture.

¶ 114. The laws were made by the people in the reign of *Darius*.

¶ 115 to 122, included. Reasons against absolute passive obedience.

¶ 123. The Bishops refuse to disown to King *James*, their inviting over the Prince of *Orange*.

¶ 124. The arch-bishop of *Canterbury*, and eight bishops, present king *James* ten articles, very near the same with that of the Prince of *Orange's* declaration.

¶ 125. The bishops refuse to sign an abhorrence of the prince of *Orange's* intended invasion. ¶ 126.

¶ 126. The Prince of Orange's speech to the gentry of *Somersetshire* and *Dorsetshire*.

¶ 127. The Bishop of *Canterbury* went to the tower and demanded they keys of the lieutenant, and delivered them to the lord *Lucas*.

¶ 128. Prince *George* of *Denmark*, Duke of *Grafton*, Duke of *Ormond*, Lord *Churchil*, &c. went over to the prince at *Sherborn Castle*.

¶ 129. The princess *Ann*, our most gracious and good queen, with the lady *Churchil*, lady *Berkley*, and the bishop of *London*, went to the forces in the North, who declared for the prince of *Orange*. The declaration of thirty lords spiritual and temporal, which they made at *Guild Hall*, Dec. 11, 1681, together with their names, which they sent to the prince of *Orange*.

¶ 130. The address of the lieutenancy of *London* to the prince.

¶ 131. The lord-mayor, aldermen, and common council's address to the prince.

¶ 132. Ten of the privy-council and peers made an order on the 14th of *Dec.* 1688, for all *Irish* soldiers to deliver up their arms.

¶ 133, 134, 135. The Duke of *Grafton* by order of the Lords, went with a regiment of foot on the 14th of *Dec.* to take *Tilbury Fort* from King *James's Irish* soldiers. On the 17th, King *James* discharged a *Popish* Bishop out of *Newgate*. Sir *George Treby's*, recorder of *London*, speech in the name of the City, to the prince, *Dec.* 20, 1688.

¶ 136, to 140. included. About sixty peers sign an association to the prince. Fifty four Lords spiritual and temporal, made an order, *Dec.* the 22d, for 'squire *Gwyn* to sign such orders as they should, from time to time, make. On the 23d of *Dec.* King *James* went from *Rocheſter*. The address of the aforeſaid peers to the prince of *Orange*, on the 25th of *Dec.* On the 9th of *Jan.* following, about thirty Lords, and eighty gentlemen of
Scotland

Scotland signed a paper to the same purpose.

¶ 140, 141, 142. The convention ordered the thanks of both houses should be returned to his Highness, in the behalf of the whole nation, &c. and ordered a day of thanksgiving for the great deliverance, &c. On the 28th of Jan. the commons voted the throne vacant; and on the 6th of Feb. the Lords consented to the said vote.

¶ 143. The word *Abdicated* explained.

¶ 144, 145. The Lords spiritual and temporal, and commons, ordered the prince and princess of *Orange* to be proclaimed King and Queen.

¶ 146. The declaration of the nobility and gentry, and commonalty at *Nottingham*.

¶ 147. Our Bishops, clergy, nobility, &c. are damned, who had a hand in the revolution, according to the doctrine of absolute *Passive obedience*.

¶ 148.

¶ 148. The doctrine of *Jure Divino*, never heard of till James the First's reign.

¶ 149. No absolute *Passive obedience* in the time of the children of *Israel*, proved by many examples of their resisting their kings.

¶ 150. The primitive christians, and others, resist their emperors for their tyranny.

¶ 151, 152, 153, 154. Several declarations in Queen *Elizabeth's* time, of the convocations of the clergy, and the parliament of *England* who justify the protestants in their resisting of their evil princes, who gave her money to assist the *Scotch*, *French* and *Dutch* protestants. And the bishops and clergy of *England* assisted the protestants of *France* in king *Charles* the First's reign.

¶ 155. The protestant princes of *Germany* resist their emperors.

¶ 156, 157, 158. Bishop *Jewel*, *Luther*, *Melancton*, *St. Chrysostom*, &c. allow of resistance.

¶ 159.

¶ 159, 162. Bishop *Bilson* and Bishop *Abbot* allow of resistance.

¶ 160, 161. Seven princes and twenty four protestant cities resist their emperor.

¶ 163, 164, 165. *Zuinglius*, one of the first reformers *Lucifer de Cagliari*, *St. Athanasius*, and *St. Austin*, for resistance.

¶ 166. The success and good consequence of resistance in several countries.

¶ 167. The difference between our case and of the first primitive christians.

¶ 168. The prophets and ancient *Jews*, as well as the primitive christians, strangers to the doctrine of absolute *Passive obedience*.

¶ 169. If all resistance be unlawful, then both *Jews* and the primitive christians are guilty of rebellion.

¶ 170. Absolute *Passive obedience* due only to our laws. To allow *Passive obedience* to be revived in any other sense, is to suffer the *Queen*
and

and both the convention houses of parliament to be called rebels and traitors.

¶ 171. Just resistance founded in self-defence ; absolute submission a kind of self murder.

¶ 172. to paragraph 178, included. Several undeniable reasons against absolute passive-obedience.

¶ 179. The legislature, the ordinance of God in *Britain*, and the executive power in our kings, &c.

¶ 180. The doctrine of absolute Passive obedience disproved by contradicting the glorious attributes of God.

¶ 181, to 184, included. The patriarchal scheme considered and refuted.

¶ 185. An objection that, if government be disturbed for unlawful proceedings, &c. how can it be safe ? answered.

¶ 186. Rulers or subjects, overturning the constitution by force, resist the ordinance of God, &c.

¶ 187,

¶ 187, 188, 189. An account of the government of king *Charles* the First, taken out of Lord *Clarendon's* history, first volume, folio; *Rushworth's* collections, first volume, folio; and *Whitelock's* memorials, folio, &c. without any observations or reflection.

¶ 190. Dr. *Sacheverell's* assertion that the prince of *Orange* disclaimed all resistance, confuted from the 25th paragraph of his declaration, and his other false assertion, that the parliament declared that they set the crown on his head, upon no other title, but that of the vacancy of the throne, disproved by the vote of both houses of parliament, in the 142 paragraph of this book.

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T H E
J U D G M E N T

O F W H O L E

KINGDOMS and NATIONS, &c.

¶ I. **G**OVERNMENT in general, as ordained and instituted by God, is circumscribed and limited by him to be exercised according to the laws of nature, in subservancy to his own glory, and the benefit of mankind. All rules are confined by the almighty and supreme sovereign, to exert their governing power for the promoting his service and honour, and to exercise their authority for the safety, welfare and prosperity of those over whom they are established. Though there were no previous compacts and agreements between princes and people as to these, yet princes would be obliged to observe them, forasmuch as they are settled and determined by the law and appointment of the divine legislator, and of the universal sovereign. Whosoever therefore refuses to govern, in subordination unto, and for God, and in order to the protection and benefit of the community, ceaseth to answer the ends unto which magistracy was first instituted, and for which rectoral authority is established over,

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and among men. Nor is it in the choice or power of any society, at their erecting the forms of government under which they are contented to live, and at their nominating the persons to whom they commit the right of administering justice towards, and over themselves, and of withstanding and avenging injuries offered them by others, to enlarge and extend the power of those whom they constitute their rulers, beyond the limits and boundaries by which God hath stated and confined magistrates in the charter of nature and revelation. Though people may both then, and afterwards abridge themselves, as they think meet, in things under their own disposal, and either contract or enlarge the ruler's power, in reference to what they have a right to retain or depart from, for the real or imagined benefit of the community; yet they can no ways interpose in the disposal of the rights which belong unto God, and which he hath incommunicably reserved to himself; nor can they confer those measures and degrees of authority upon those whom they elect and advance to magistracy, which God hath antecedently precluded the one from bestowing, and the other from receiving. For example, no body or society of men, can transfer a power unto those whom they select and set apart from among themselves to be rulers over the community; by virtue whereof those vested with magistratical authority, can withdraw their subjects from their allegiance to God, or act arbitrarily in prescribing and imposing what religion they please, or destroy the meanest person, saving upon a previous crime, and a just demerit.

¶ 2. No man of common sense can imagine, that at the first propagation of mankind, there were

were such governments as are among us at this time. But in those times each father, without being subject to any superior power, governed his wife, children and servants according to his will and pleasure. Now it seems very probable, that even at the time of the deluge, there was no magistracy or civil constitution, but that the government was lodged only in each father of his family : For it is scarce to be imagined, that such abominable disorders should have been introduced, where the power of magistracy and laws was exercised ; and it is observable, that after once the rules of government were constituted, we do not find mankind in general, run into such enormities, of which God Almighty was obliged to purge the world by an universal punishment. *Puffendorff's introduction to the History of Europe*, p. 1.

¶ 3. Now God having, in the institution of magistracy confined such as shall be chosen rulers, within no other limits, in reference to our civil concerns, save that they are to govern for the good of those over whom they come to be established ; it remains free and entire to the people at their first erection of, and submission to government, to prescribe and define what shall be the measures and boundaries of the public good, and unto what rules and standard the magistrate shall be restrained, in order to his defending and promoting the benefit of the society of which he is created the civil and political head. And every one being equally master of his own property and liberty, antecedently to their agreement with one another, and to the compact of the universality, or at least of the majority with him, or those whom they call to rule over them ; it
evidently

evidently follows, that those who come to be clothed with magistracy, can lay claim to no more authority over the liberty, or pretend to no more right in, and over the property, of that body politic, than what the community conferred upon them, and doth voluntarily divest themselves of, upon the prospect of the advantages arising to them from their living in societies, and under magistrates. We must suppose all mankind to have been infatuated, if they should have submitted themselves to the jurisdiction of one who had no antecedent right to command them, meerly in order to their being in a worse condition than they previously were. And therefore seeing the power, extent and latitude of the magistrate's power must owe its original to some grant of the people, it is incumbent upon him to prove and justify the several degrees and measures of authority and prerogatives which he pretends to claim. And what he cannot derive from some concession of the society, must be acknowledged to remain still vested in the people, as their reserved privilege and right. And whatever injurious power he assumes and exercises over them, which he cannot prove their surrender of from themselves unto him, argues not only his departing from the compact betwixt him and the community, by virtue whereof he was ordained and created their ruler, but it renders him guilty of an invasion upon the rights of the whole society, and upon every individual member of it. Force or conquest give no just nor legal title over a people, by which the conqueror becomes their magistrate, until they, by some consent either tacit, or explicit, declare their submission to, and acquiescence in him, upon the

the best terms which they can obtain, and that he is willing to grant. And as no civil government is lawful, but what is founded upon compact and agreement between those chosen to govern, and them who condescended to be governed; so the articles upon which they first stipulate the one with the other, become the fundamentals of the respective constitutions of nations, and together with superadded positive laws, are both the limits of the ruler's authority, and the measures of the subjects obedience. To extend the Governor's right to command, and subjects duty to obey, beyond the laws of one's country, is treason against the constitution, and treachery to the society whereof we are members: And to dissolve the ties by which Princes stand confined, and overthrow the hedges by which the reserved rights, privileges and properties of the subjects are fenced about, tempts every prince to become a tyrant, and to make all his subjects slaves. All previous agreements, stipulations, and laws are made insignificant by that pernicious and adulatory doctrine of non-resistance, when our rights are arbitrarily invaded, and the constitution, and government openly attacked: Such a doctrine tricks and cheats those that were antecedently free, into a noose, and state of thralldom and bondage, under the specious and gilded pretence of the divine rights of Princes.

¶ 4. As it is by virtue of compacts, stipulations, compromises and agreements, that all legal governments have their original and establishment, that various and distinct forms obtain in different countries, and that a title and right to exercise authority, and the method of arriving at
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it, is provided for and procured, so every subject's allegiance is first owing to the constitution, and to the ruler only in the force and virtue of what every member of the political society is bound unto, by the terms of the original pact and settlement. Abstracting from the constitution, and the obligations which it lays us under, no man can challenge a right of commanding us, nor do we owe him any duty of subjection and obedience. Whosoever he be that, under a pretence of being constituted sovereign, does invade and subvert the fundamental laws of the society, he does thereby, *ipso facto*, annul all the legal right he had to govern, and absolves all, who were before his subjects, from the legal engagements they were under of yielding him obedience; so that the immediate and natural effect of a Prince's claiming what the rules of the constitution are so far from entitling him unto, that they preclude him from it, is the depriving himself of all right to claim any thing, and a restoring of the people to their state and condition of primitive freedom; of which, as they only divested themselves by and upon the terms of the constitution, so they did not depart from it any longer than that should be kept sacred and inviolable, nor any further than was covenanted and stipulated in, and by the terms and agreements therein specified and contained. And seeing it proceeds from the efficacy of the forementioned contracts, that one person becomes advanced from the common level, to the title and authority of a sovereign, and that all others are by their own consent, put into the condition of subjects, there doth arise from thence, not only a mutual relation betwixt him that governs, and them that are governed; but
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the first and highest treason is that which is committed against the constitution, and such crimes against the person and dignity of the supreme magistrate, are only made and declared to be so, by reason of the capacity he is put into by the constitution, of preserving and defending the society, and because it is needful, in order to the peace, welfare and safety of the community, that he should be covered from all danger, and rendered sacred in his person, and inviolable in his regal honour, while he answereth the trust which the people, upon their assembling and uniting into a body politic, committed unto him, and does neither depart from the essential and fundamental terms of the original compact, nor from their necessary provisions afterwards added, and enacted for preserving the government in its primitive state and frame. So that they neither are, nor can be traitors who endeavour to preserve and maintain the constitution ; but they are traitors who design and pursue the subversion of it : They are the rebels who go about to overthrow the government of their coun:ry, whereas such as seek to support and defend it, are the truly loyal persons, and do act conformable to the ties and obligation of fealty. Nor is it meerly the first and highest treason in itself, that a member of a political society is capable of committing, to go about to subvert the constitution ; but it is also the greatest treason he can perpetrate against the person, crown and dignity of the king ; for such an endeavour both annuls and vacates all his title to superiority over those above whom he was exalted from the common level, by virtue of the constitution, and deprives him of all rightful and legal claim of rectoral authority over the society,

by

by destroying the alone foundation upon which it was erected, and by which he became vested with it. By canceling the charter from which he deriveth and holdeth his governing power, he not only makes his title to sovereignty precarious, but renders every claim of that kind, and every challenge of governing the community, to be an invasion and usurpation.

¶ 5. To all which I will only further add under this head, that as all legal government is founded upon a mutual stipulation and compact, so the first and most absolute obligation arising from this agreement, lies upon the Prince towards the people; whereas the fealty and duty which by the said contract and covenant they bind and engage themselves unto towards him, is in order but secondary and conditional. Whenever any person is chosen from the rest of the society, and raised to kingship upon a foregoing and previous contract with the community, he becomes upon the very accepting it bound absolutely, and without reserve, to govern them according to the terms and measures which they have agreed and stipulated, and to rule them by the tenor of the laws, unto which they have circumscribed and confined him. Whereas all the obedience and fealty which they, who by that agreement have rendered themselves subjects, owe unto their ordained and created sovereign, do derive their obligatory power over them, and become due unto him, upon his governing them according to the concerted and stipulated conditions, and his preserving unto them their reserved privileges, liberties and rights.

¶ 6. As *Great-Britain* has been the most provident and careful of all countries in reserving to
itself,

itself, upon the first institution of, and submission to regal government, all such rights, privileges, liberties, as were necessary to render it either renowned and honourable abroad, or safe, happy and prosperous at home; so it hath, with a courage and magnanimity peculiar unto it, maintained its privileges, and liberties through a long series of ages, and either re-assured and secured them by new and superadded laws, when there were endeavours to undermine and supplant them, or else have vindicated them with a generous courage, even to the deposition and abdication of treacherous, usurping and tyrannical princes, when more gentle, mild and senatorian methods were found weak and ineffectual to cover and protect them to themselves, and to convey and transmit them to such as were to come after. The people of *Britain* have the same title to, and security for the enjoyment of their liberties and properties, that our kings have to their crowns, or for defence of the regal dignity. For as they can plead nothing for what they enjoy or claim as kings, but fundamental and positive laws; so the subject's interest in his liberty and property is conveyed unto him, by the same terms and channels, and fenced about with the same hedges and pales. *Horn* tells us in his *Mirror*, chap. 1, *That the Saxons having put an end to the heptarchy, by reason of the continual wars that attended the reigning of so many kings in so narrow a compass of land, they chose themselves one king to maintain and defend their persons and goods in peace, by rules of law, and made him swear, that he should be obedient to suffer right as well as his people should be.* For according to *Bracton*, Lib. 3. c. 9. *The whole power of the king of England is to do good, and*

not to do hurt ; nor can he do any thing as a king, but what he can legally do. And as we know no king, but a king by law ; so we are assured by Fortescue, Lib. 1. c. 8. and 3. c. 9, That he governs not his people by a regal and an absolute power, but by a politic, i. e. by a limited, legal power. Hence our princes were and are bound to swear at their coronation, That they would govern according to law, and preserve unto them all their customs and franchises, (Stat. of Provis. 25. Ed. 3.) Nor can we have a clearer evidence of the legal extent of the king's authority, and of the dimension of the obedience which the subject is bound unto, than that which we have in the oath of fealty, formerly taken by the subject ; namely, That he should be obedient to all the king's laws, and to every precept and process proceeding from the same. (Wilkins's Treat. Coron. &c. Court-Leet, &c. p. 140.) Nor is that unworthy our observation, which Hen. I. writ to the Pope, when attacked by him about the matter of investitures, viz. That he could not diminish the rights either of the crown or of the kingdom, and that if he should be so abject and mean as to attempt it, the barons and people of England, represented in parliament, would not allow or permit it. It is upon this account affirmed of an English king, That he can do no wrong, because he can do nothing but what the law impowers him. For though he hath all things subjected to his authority, while he acts according to law, yet there is nothing left to his arbitrary will. The several charters, especially that stiled *The great Charter*, in and by which our rights stand secured, sworn and entailed unto us, and to our posterity, were not the grants and concessions of our princes, but recognitions of what we have

have reserved unto ourselves in the original institution of our government, and of what had always appertained unto us by common law and immemorial customs. And though these privileges and liberties came to be more distinctly expressed, and signally ratified in the great charter, than they had been before; yet they had not only been acknowledged and transmitted down in the laws of *Edward the Confessor*, as the birth-right of every *Englishman*; which also, *William*, the first *Norman* king ratified as such: But they had long before been collected into a body by king *Edgar the Saxon*, and were only revised, repeated and confirmed by the *Confessor*. But amongst all the rights and privileges appertained unto us, that of having a share in the legislation, and being to be governed by such laws as we ourselves shall chuse, is the most fundamental and essential, as well as the most advantageous and beneficial: For thereby we are enabled to make such successive and continual provisions, as to the preservation of the society, and the promoting either the temporal or eternal welfare of the subject, shall be found needful or expedient. And as by our being possessed of so great a portion of the legislative power, and by our having a right by several positive laws to annual parliaments, we can both relieve ourselves from and against every thing that either threateneth, endangereth, or oppresseth us; and furnish, and accommodate the whole community with all legal succours and means that are necessary for peace, preservation and prosperity; so herein lies our signal advantage and felicity, that what we become interested in by a positive and statute law, it doth thereby and from thence, become a part of our right and property

perty, and not to be wrested again from us but
 by our own consent. For as *Bracton* saith, Lib.
 1. c. 2. (though it be also one of the first dictates
 of reason and common sense) laws can neither be
 altered nor vacated, save by the consent and con-
 currence of the same authority by which they
 were made and enacted. It is true that the exe-
 cutive part of the government is, both by our
 common and statute laws conveyed unto, and vest-
 ed in the king, but at the same time there is suf-
 ficient provision made, both in the term of our
 constitution, and in our parliamentary acts, to
 prevent this from being hurtful unto us, unless
 our sovereigns become guilty both of the highest
 treachery, and withal make an invasion upon,
 and endeavour the subversion of the whole go-
 vernment. A right of overseeing the execution
 of the laws, being a prerogative inseperable from
 the office of the supreme magistrate, because the
 very ends to which he was cloathed with rectoral
 authority and for which he is designed and esta-
 blished, are the conservation of the public peace,
 and the administration of justice, towards and a-
 mong the members or the body politic. All that
 could be expected from the wisdom of our ancest-
 ors, or practicable by them, either upon the first
 institution of civil government, or upon their after
 improvements and farther regulations of it, was
 to direct, limit, and restrain his executive power
 committed unto the sovereign, and to make him
 and his subordinate ministers accountable, in case
 they should deny, delay, or pervert justice, or be
 found chargeable with male-administration of the
 laws. Now, never were a people more provident
 as to all these, than our predecessors and ancestors
 have been, for as they have left nothing to the
 king's

king's private discretion, much less to his arbitrary will, but have assigned him the laws as the rules and measures he is to govern by; so they not only delegated it unto him, as a trust which he is to swear faithfully to perform, but they always reserved a liberty, right and power unto themselves of inspecting his administration, making him responsible for it, and of abdicating him from the sovereignty upon universal and egregious failures in the trust that had been credited and consigned unto him. Of this we have indisputable evidence in the articles advanced in parliament against *Rich. II.* when he was deposed from the throne, and had the scepter taken out of his hand. Yea, to prevent all dangers which might befall the subject, through the king's being trusted with the executive power of the government, he is not by our constitution allowed to do any thing in his own person; nay, not so much as to draw and seal the commission of those that are to act in his name, and under him. And as nothing is accounted in our government a commission, but what the law authorises and warrants; so he is liable to be proceeded against, as the highest criminal, that presumeth to act in the virtue of any other. An illegal commission is so far from conveying a power unto any man to act, that it is a greater crime to do any thing upon the imaginary authority of it, than it would be to commit the same fact, without all colour and pretence of power and warrant. Seeing the injury of the one case doth not affect and terminate in him that receives it; whereas in the other it affects both the king, the government, and the whole body of the people. And as if it were not enough to secure us from an ill use of the executive power

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lodged in the king, that all the commissions issuable from him are to be legal, or otherwise to be accounted null; even they who stand warrant-ed and impowered to act by legal commissions are not only to be sworn to execute them legally, but are obnoxious to be punished for every thing they do upon them, that deviates from the measures of the law. And as it is the duty, and hath been the practice of those princes who have been faithful to the trust reposed in them, regardful of their own honour, and just to the kingdom, to punish their officers and ministers for malversation, and for departing in their administration from the rules of our common and statute laws; witness king *Alfred*, who caused forty-four justices to be hanged in one year for illegal, false, and corrupt judgments: So it belongeth to our parliaments, as being one of the great ends as well as reasons, for which they ought to be frequently called and assembled, to enquire into, and to punish the crimes of judges and all others employed by, and under the king, in the executive part of the government. From hence it is, that as the *House of Commons*, among other capacities in which they sit and act, are by the constitution to be the great inquest of the kingdom, to search into all the oppressions and injustice of the king's ministers; so the *House of Lords*, among their several other rights and privileges, stand cloathed with the power and authority of the *High Court of Judicature* of the nation, who are to punish those who have misbehaved themselves in all courts, as well as those to whom inferior courts have either connived at, or have been so wicked as unrighteously to justify. Of this all ages afford us precedents, and nothing but the neglect of this, in not making

ing so frequent and signal examples of parliamentary justice, among the ministerial dispensers of our laws, and the officers of our late kings, as our ancestors used to do, hath been the encouragement and cause of so many usurpations and invasions of the laws, immunities, rights and privileges of the nation.

¶ 7. There being no natural or divine law for any form of government, or that one person rather than another should have the sovereign administration of affairs, or have power over many thousand different families, who are by nature all equal, being of the same rank, promiscuously born to the same advantages of nature, and to the use of the same common faculties; therefore mankind is at liberty to chuse what form of government they like best. Can any man suppose that God was not as much concerned for *Italy*, when it had but one prince, as now, when it has so many; and the like with *Germany*, and also with *Switzerland*, which was once one commonwealth under the dukes and marquisses of *Austria*, and now divided into thirteen cantons, or commonwealths, under popular magistrates of their own? *England* was first a monarchy under the *Britains*, and then a province under the *Romans*, and after that divided into seven kingdoms at once, under the *Saxons*, and after them of the *Danes* and then the *Normans*, and now a monarchy again under the *English*, and all this by God's providence, or permission, who suffered his own peculiar people, the *Jews*, to be under divers manner of governments at divers times; at first under patriarchs, *Abraham*, *Isaac* and *Jacob*; then under captains, *Moses*, *Joshua*, &c. then under judges, *Othniel*, *Ehud* and *Gideon*; then under

der high-priests, *Eli* and *Samuel*; then under kings, *Saul*, *David*, and the rest; then under captains and high-priests again, as *Zerobabel*, *Judas Macabeus*, and his brethren, until the government was lastly taken from them, and they brought under the power of the *Romans*. And that God does approve of, or permit such magistrate or magistrates, the community thinks fit to appoint, is plain by the testimony of holy scriptures, when God said to *Solomon*, *By me kings rule, and nobles, even all the judges of the earth*, Prov. viii. 16. that is, by his permission they govern, though chosen by the people.

¶ 8. All politic societies began from a voluntary union and mutual agreement of men; freely acting in the choice of the governors, and forms of government.

¶ 9. The safety of the people is the supreme law, and what they by common consent have enacted only for the public safety, they, may without any obstacle, alter, when things require it, by the like common consent.

¶ 10. The rightful power of making laws to command whole politic societies of men belongeth so properly unto the same entire societies, that for any prince, or potentate, of what kind soever upon earth, to exercise the same of himself, and not by express commission immediately and personally received from God, or else by authority derived at first by their consent, upon whose persons they impose laws, it is no better than meer tyranny. Laws they are not therefore which public approbation hath not made so. *Hooker's Eccl. Pol. L. 1. S. 10.*

¶ 11. *Whosoever (says Aristotle) is governed by a man without a law, is governed by a man and by a beast.*

¶ 12.

¶ 12. *Aristotle saith, That the whole kingdom, city or family, is more excellent, and to be preferred before any part or member thereof.*

¶ 13. By the law of nature, *Salus Populi*, the welfare of the people is both the supreme and first law in government, and the scope and end of all other laws, and of government itself, because the safety of the body politic is ever to be preferred before any one person whatsoever.

¶ 14. No human law is binding which is contrary to scripture, or the general laws of nature.

¶ 15. Religion doth not overthrow nature, whose chiefest principle is to preserve herself.

¶ 16. As magistrates were designed for the public good, so the obligation to them must be understood, as to be still in subordination to the main end; for the reason of all law and government is the public good.

¶ 17. A just governor, for the benefit of the people, is more careful of the public good and welfare, than of his own private advantage.

¶ 18. The power that is lodged in the crown is only a trust, and nothing more; for no prince has any other right to the throne, than what the laws of the land, or voice of the people gives him; for he cannot have a right by nature; he has no more power or authority from God, before he is a magistrate, than another man; all men are ordained of God, and have power or strength from him, either to do good or evil, and God Almighty permits them to do either. The prince has his authority from the people, or the law, which chuses or appoints him to be supreme, of which he is only executor, during the intervals of parliament. The law is the rule

and power of his government, (and the measure of the people's submission and obedience) beyond which he hath no just or rightful power in his politic capacity.

¶ 19. The supreme authority of a nation belongs to those who have the legislative authority reserved to them, and not only in those who have the executive, which is plainly a trust, when it is separated from the legislative power; and all trusts, by their nature, import, that those to whom they are given are accountable, though no such condition is specified.

¶ 20. All that know any thing of *Britain*, know that the government of it is a mixed limited monarchy, where the supreme power is divided equally between the king and people (*i. e.* the lords and commons) since he can neither raise money, nor make, or annul laws without them, and those laws are a rule to both, a common measure to him of his power, and to them of their obedience; the government is called a monarchy, because that kind is predominant in the constitution, the king having his share in the supreme power, and the chief executive part or administration is singly in him.

¶ 21. There must be in every government a power to preserve itself, not only against force from *without*, but against violence, and every thing else that is destructive, from *within*: As a man preserves his person from diseases, as well as defends it against violence. He cannot renounce this power, because self-preservation is, and will always be a duty, neither can a people united in society, or government, renounce the power of maintaining that society or government, the instrument of their safety and preservation;
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for the condition of all subjects would be alike, whether under absolute or limited government, if it were not lawful to maintain and preserve those limitations, since will and pleasure, and not law, would be alike in both, the measure of obedience; for to have liberties and privileges, unless they may be defended, and to have none at all, is the same thing as to be governed by meer will and pleasure or by laws subject to that will and pleasure.

¶ 22. Laws and oaths in limited governments are ties upon king and people, and must be interpreted according to the nature of the government, so as to prove fences for the constitution, and not to serve for handles to overthrow it; as the coronation oath, and oath of allegiance are in effect, but swearing to the constitution, in one to govern, and in the other to be governed, according to it. But if a coronation oath be a tie upon a king only to God, and the oath of allegiance be extended to an absolute subjection, then both king and people swear against the constitution, instead of swearing to maintain it as they ought to do.

¶ 23. The laws are the nerves and sinews of societies; and as the magistrate is above the people in his legal capacity, so is the law above the magistrate, or else there could be no safety to the constitution.

¶ 24. He who makes himself above all law, is no member of a commonwealth, but a meer tyrant whenever he pleases.

¶ 25. He who is for destroying the being of another, hath quitted (or has not) the reason which God hath given to be the rule (betwixt man and man) of justice and equity, and hath
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put himself into the state of war with the other, and is as noxious as any savage beast that seeks his destruction.

¶ 26. No man in civil society can be exempted from the laws of it: For if there be no appeal on earth, for redress or security against the greatest mischiefs the prince may do; or cause to be done by others, then every man in that society is in a state of nature with respect to him or those others.

¶ 27. The principles of natural religion give those who are in authority no power at all, but only secures them in the possession of that which is theirs by the laws of the country.

¶ 28. Absolute monarchy is inconsistent with civil society; and therefore can be no form of civil government, which is to remedy the inconveniences of the state of nature.

¶ 29. No man, or society of men, have power to deliver up their preservation, or the means of it, to the absolute will of any man, and they will have always a right, to preserve what they have not power to part with.

¶ 30. No power can exempt princes from the obligation to the eternal laws of God and nature. In all disputes between power and liberty, power must always be proved, but liberty proves itself; the one being founded on positive law, the other upon the law of nature.

¶ 31. If a magistrate, notwithstanding all laws made for the well governing a community, will act destructive to that community, they are discharged, either from active or passive obedience, and indispenfibly obliged by the law of nature to resistance.

¶ 32. If a man may be a wolf to a man, nothing forbids but that a man may be a God to a man. Therefore antiquity hath enrolled *Hercules* among the number of the Gods, because he punished *Busiris*, *Diomedes*, and other tyrants, the pests of mankind, and monsters of the world. The *Roman* empire, as long as it stood free, was *Patrocinium orbis Terræ*, by *Cicero*, because the senate was the haven and refuge of kings, and of oppressed kingdoms and nations.

¶ 33. The same reason that obliges people to submit to governors and magistrates when they govern according to the laws and constitution of the country, and act for the good of the society, does as much oblige the people to oppose them, if they design their ruin and destruction; it cannot be supposed that God who has obliged mankind to preserve their lives, and consequently to use the means that are necessary to that end, should require people to suffer themselves to be destroyed, or made slaves, to gratify the lust or barbarity of any single person, or a few who are by nature their equals, and only above them by being in an office which the people erected for their own convenience.

¶ 34. When the christian religion is become a part of the subject's property by the laws and constitution of the country; then it is to be considered as one of their principal rights: And so may be defended as well as any other civil right.

¶ 35. That cause is just which defends the laws; which protects the common good; which preserves the state: And that cause is unjust which violates the laws; defends the breakers of the laws; protects the subverters of the constitution. That is just which does destroy tyrannical government;

vernment: That unjust which would abolish just government.

¶ 36. What can be more absurd than to say, *That there is an absolute subjection due to a prince, to whom the laws of God, nature, and the country, have not given authority?* As if such men were as so many herds of cattle, or beasts of burden, made for the prince's use.

¶ 37. The reign of a good king resembles that of heaven, over which there is but one God; for he is no less beloved of the virtuous, than feared of the bad: And if human frailty could admit a succession of good kings, their government would be preferable to all others.

¶ 38. It is not the title of a king, but the power (derived from the laws) wherewith he is invested, which makes the difference betwixt him and other men. His person is sacred, and not to be resisted, he being above every member contained in the same society, and therefore cannot be resisted or deprived of his office, without the greatest sin of robbery and injustice imaginable, whilst he continues the king, and becomes not the enemy of his kingdom.

¶ 39. The government which God ordained over the children of *Israel* consisted of three parts, besides the magistrates of the several tribes and cities. They had a chief magistrate, who was called judge or captain, as *Joshua*, *Gideon* and others, a council of seventy chosen men and the General Assemblies of the people, and these judges or captains had not the name or power of kings, neither was their power transmitted to their children, but made occasionally as need required. Thus were *Ehud*, *Gideon*, *Jephthah*, and others set up: *Whosoever will give battle* (say the people

ple and princes of Gilead) to the children of Ammon, shall be head over all the inhabitants of Gilead, Judg. x. 18. And knowing Jephthah to be a mighty man of valour, though he was the son of a harlot, the people made him head and captain over them, Judg. xi. 1, 11. When the Tribes of Reuben, Gad, and half that of Manasseh, had built an altar by Jordan, the whole congregation of the children of Israel gathered together at Shiloh to go up to war against them, and sent Phineas the priest and ten princes of the congregation, of each chief house a prince throughout all the tribes of Israel, who were heads of thousands, and this message was not directed to one man, but to all the children of Reuben, Gad, and Manasseh. And the answer was sent by them all, and Phineas and the ten princes made their report to the people of Israel, and all was quiet, Josh. xxii. And the like Assembly Joshua called to Sechem, composed of all the people or tribes of Israel, and he called for their elders, their heads of families, their judges, and other officers, and Joshua spake unto all the people, and they agreeing to what he proposed, he made a covenant and law with them before the Lord, which was written in the book of the law, Josh. xxiv.

¶ 40. After Joshua's death the proceedings of every tribe were grounded upon councils taken at such assemblies among themselves for their own concernments, as appears by the actions of Judah and Simeon, &c. against the Canaanites.

¶ 41. When the sons of Samuel were judges over Israel, they took bribes and perverted judgment, therefore the elders of Israel desired Samuel to make them a king, and though the elders are only mentioned to have asked a King of Samuel, they

they seem to have been deputed from the whole congregation, for God said unto *Samuel*, *hearken to the voice of the people in all that they say unto thee*, 1 Sam. viii. 4, 7. The *Jews* in their creating of judges, kings, or other magistrates, had no regard to paternity, or to any who by extraction could in the least pretend to the right of fathers. God did never direct them to do it, nor reprove them for neglecting it; if they would chuse a king, he commanded them to chuse one of their brethren, (not one who called himself father) and to chuse him by lot, and caused the lot to fall upon *Saul*, a young man (who was the keeper of his father's asses) of the youngest tribe: *David* and the other kings of *Israel* and *Judah*, had no more to say for themselves in that point than *Saul*: All the Kings of that nation before and after the captivity, ordinarily or extraordinarily set up, justly or unjustly, were raised without any regard to any prerogative they could claim or arrogate to themselves on that account. All that they had therefore was from the people that elevated them. It was impossible for them to confer any thing upon those from whom they received all they had; or for the people to give power to kings, if they had it not in themselves; which power universally residing in every one, is that which we call liberty. When God gave liberty to his people to make a king, he did neither constitute or elect any till they desired it, nor commanded them to do it themselves, but left it to their own free will, whether they would have a king or no king; nor were they appointed to take him out of any line: Every *Israelite* might be chosen: None but strangers were excluded; and the people were left to the liberty of chusing and instituting

tuting any one of their brethren, who was commanded not to multiply unto himself horses nor wives, nor greatly to multiply to himself silver and gold, and this law he was to keep in a book, that his heart might not be lifted up above his brethren, *Deut. xvii.* But the whole history of the *Jews* shews the pride, magnificence, pomp and glory usurped by their kings, was utterly contrary to the will of God. They did lift up their hearts above their brethren, which was forbidden by the law of God.

¶ 42. And *Josephus* paraphrasing upon that place, says, They shall do nothing without the advice of the *Sanhedrim*, or if they do, they shall oppose them. *Jos. Ant. Jud.* This agrees with the confession of *Zedekiah*, to the princes (which was the *Sanhedrim*) *The king can do nothing without you*, *Jer. xxxviii.* which seems to have been in pursuance of the law of that kingdom, which was written in a book, and laid up before the Lord; they were not to govern by their own will, but according to that law from which they might not recede. This was the law of God, not to be abrogated by man; a law of liberty; directly opposite to the necessity of submitting to the will of any one man.

¶ 43. *1 Sam. viii. 9, 22.* God bids *Samuel* hearken to the voice of the people, and make them a king; and *Samuel* told the people the manner of the kingdom, and wrote it in a book, and laid it up before the Lord, *1 Sam. x. 25.* It is plain the manner of the kingdom signifies the constitution of the government, by which was meant the conditions on which *Saul* was to be king, and they his subjects; for though God had given him the crown, it was to rule the people accord-

ing to justice and laws; and this is meant in frequent expressions, by *going in and out before them*; referring to justice being executed in the gates, and peace and war; the king was to lead them in *one*, and direct in the *other*. This manner of the kingdom was told to all the people; that implied, the consent of the people was required to make him king; without which though *Samuel* had anointed him, he was not owned by the *Israelites*, but went about his private affairs, 'till after the victory over the *Ammonites*. And this compact between *Saul* and the people being wrote in a book, and laid up before the Lord, was a very good equivalent to an oath recorded on both sides, as an oath of allegiance, and his oath of government; yet they despised him and said, *How shall this man save us?* 1 Sam. x. 27. They saw no merit in the man they expected; the king that they would have had, should have been a man of some figure, whose conduct had been tried, and valour and bravery had made famous among the tribes; but when they saw a youth mean and despicable in his original, of the youngest tribe of *Israel*, a *Benjamite*, they were disappointed, they went away dejected, and refuse him, notwithstanding *Samuel* had anointed him, and God had singled him out by lot. It seemed as if God had owned there was some appearance of reason in the people's dislike of their king, and therefore he was not pleased to express any anger at the contempt of their rejecting *Saul*, as it were owning, that a king ought to have personal merit to recommend him; and therefore by his providence he works upon the people's judgment, and by a miracle gives *Saul* the merit which obtained the people's good liking; for Na-

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hath the Ammonite, came and encamped against Jabesh-Gilead, and the elders thereof sent messengers to Gibeah, who told the tidings in the ears of the people; and they lift up their voices and wept; and Saul said, what aileth the people that they weep; and they told him the tidings of the men of Jabesh. And the spirit of the Lord came upon Saul when he heard those tidings, and his anger was kindled greatly, and the fear of the Lord fell on the people, and they came out with one consent, and slew the Ammonites. After the battle was over, Samuel said to the people, Come, and let us go to Gilgal and renew the kingdom there. And all the people went to Gilgal, and there they made Saul king before the Lord, that is, they accepted of him, 1 Sam. xi. 1, 5, 6, 7, 14, 15. chap. xii. 13. Now therefore, behold the king whom ye have chosen, and whom ye have desired; and behold the Lord hath set a king over you.

¶ 44. All that do assert unconditional obedience do assert, that kings derive their authority from God alone: I deny that there ever was any king in the world that derived his authority from God alone. *Saul*, the first king of *Israel*, had never reigned, but the people desired a king even against the will of God; and though he was proclaimed king at *Mezpah*, yet after that he lived a private life, and looked after his father's cattle, till he was created so the second time by the people at *Gilgal*: And *David*, though he had been anointed by the command of God, was anointed the second time in *Hebron*, by the tribe of *Judah*, and after that by all the people of *Israel*, who after that made a mutual covenant betwixt him and them, 2 Sam. v. 1. chap. 11. Now a covenant lays an obligation upon kings, and restrains
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them within bounds, according to that covenant and agreement. *Jehoiada* the priest made *Joash* king in his stead after the people had entered into covenant one with another, 2 *Kings* xi. I confess that these kings, and all that reigned in *David's* posterity, were appointed to the kingdom, both by God, and the people ; but all other kings of what country soever, I affirm, that they are made by the people only ; nor can it be made appear, that kings are appointed by God any otherwise than as all other things, great and small, are appointed by him, because nothing comes to pass without his permission, or providence. The throne of *David* was in a peculiar manner called, *The throne of the Lord*, it being a type of our Saviour's throne in the kingdom of heaven ; and from which line our Saviour proceeded. But the thrones of other princes are no otherwise God's, than as all other things in the world are his. *Chorn*, xxix. 11, 12. *Thine, O Lord, is the greatness, &c. for all that is in heaven, and in the earth is thine. Both riches and honour come of thee, and thou reignest over all.*

¶ 45. When *Solomon* was dead the people assembled themselves at *Sichem* to make *Reboboam*, the son of *Solomon*, king, thither he went, as one stood for the place. The people propose conditions, upon which they were willing to admit him to the government : He desires three days to advise ; he consults the old men ; they persuade him to comply with the people ; then he advises with the young men, who persuade him to threaten the people with whips and scorpions ; and he answered the people as they advised him. When all *Israel* saw that he hearkened not to them, then they openly professed against him, and

and declared the right of the people, and their own liberty, saying *What portion have we in David ? To thy tents, O Israel ! Now look to thy own house David.* When the king sent *Adoram* to them, they stoned him with stones ; and when *Rebo-boam* had prepared a great army to reduce the *Israelites*, he was forbidden by the prophet, 1 Kings xii. 24. *Thus saith the Lord, ye shall not go up, nor fight against your brethren.* He calls them not rebels but their brethren. Deut. xvii. 24. *When thou art come into the land, which the Lord thy God giveth thee, and shalt say, I will set a king over me, like as all the nations about me, &c.* These words confirm to us that the right of chusing, yea, of changing their own government is, by the grant of God himself, in the people.

¶ 46. This was a gift bestowed by God upon his children and people. Nay *David* himself was so far from taking upon him to be king, 'till the tribe of *Judah* had chosen him, that he often acknowledged *Saul* to be his lord. When *Baanah* and *Recab* brought the head of *Ishbosheth* to him, he commanded them to be slain ; because they had killed a righteous man in his own house, 2 Sam. iv. which he could not have said if *Ishbosheth* had unjustly detained from him the ten tribes, and that he had a right to reign over them before they had chosen him. The word of God did not make him king, but only foretold that he should be king, and by such ways as he pleased prepared the hearts of the people to set him up ; and 'till the time designed by God for that work was accomplished, he pretended to no other authority, than what the six hundred men, who first followed him, and afterwards the tribe of *Judah*,

Judah, and at last all the rest of the people conferred it upon him. If *David*, though designed by God to be king, and anointed by the hand of the prophet, and was king until the people had chosen him, and he had made a covenant with them; it will be hard to find a man who can claim a right, which is not original from the people. And if the people of *Israel* could erect and pull down, institute and abrogate, or transfer to other persons, or families, kingdoms more firmly established than any we know of or have heard of; the same cannot be denied to any other nations. And no other reason can be given for the infinite variety of constitutions that have been, and are in the world, than that the people who made them would have them so; which could not have been, if God and nature had appointed one general rule for all nations. And as the rights and liberties of a nation may be utterly subverted and abolished, if the power of the whole people, or nation may not be employed to assert them, or punish the violation of them. But as it is the fundamental right of every nation to be governed by such laws, in such manner, and by such persons as they think most conducing to their own good, they cannot be accountable to any but themselves for what they do in that most important affair. And as the safety of all nations consists in rightly placing and measuring of power, such have been found always to prosper, who have given it to those from whom usurpations was least to be feared; who have been least subject to be awed, cheated or corrupted; and who, having the greatest interest in the nation were most concerned to preserve its power, liberty and welfare. This is the greatest trust that can be reposed in
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men. This power was by the *Spartans* given to the *Ephroi*, and the senate of 28, in *Venice*, to that which they call *Concillio de Pragadi*; in *Germany*, *Spain*, *France*, *Sweedland*, *Denmark*, *Poland*, *Hungary*, *Bohemia*, *Scotland*, *England*; and generally all the nations that have lived under the *Gothic Polity*, it has been in their general assemblies, under the names of *Diets*, *Cortez*, *Parliaments*, *Senates*, and the like. But in what hands soever it is, the power of making, abrogating, changing, correcting and interpreting laws, has been in the same; kings have been rejected or deposed; the succession of the crown settled, regulated, or changed. And I defy any man to shew me one king amongst all the nations aforementioned, that has any right to the crown he wears, unless such acts were good.

¶ 47. *Cicero de Offic. Lib. 2.* is thus translated by Sir Roger l'Estrange, p. 101, 102. *Herodotus* tells us, that the Medians chose their kings originally for the probity of their manners, and in hopes of enjoying the benefits of common justice; which I am persuaded was the end and practice likewise of our predecessors: For when in old time, the weaker were oppressed by the stronger, the people presently betook themselves to one more excellent than the rest for their protector: And it was his part to relieve the distressed, and to make such provision that common right might be done indifferently betwixt all parties. And in making of their laws they had the same prospect, as in the choice of their kings. The thing propounded was an equal and a common right, without being so qualified. If under the administration of some one man that was just and good they attained that end, they were well contented there to rest:

rest : But in case of failing, there were laws invented, which, to all under them, and at all times should still pronounce one and the same sentence. This is clear, that in all elections the people have still had a care to pitch upon him for their governor that was most revered for his justice, always provided that he were a man of prudence too. And what is it that a nation would not believe itself able to compass, under so auspicious a conduct.

¶ 48. *Cæsar* and *Tacitus* describe the ancient *Britons* to have been a fierce people ; zealous for liberty ; a free people ; not like the *Gauls*, governed by laws made by the great men, but by the people. In *Cæsar's* time they chose *Cassivellanus*, and afterwards *Carastacus*, *Arviragus*, *Galgacus* and others to command them in their wars, but they retained the government in themselves. That no force might be put upon them, they met armed in their general assemblies ; and though the smaller matters were left to the determination of the chief men, chosen by themselves for that purpose, they reserved the most important to themselves. When the *Romans* had brought them low, they set up certain kings to govern such who were in their territories : But those who defended themselves by the natural strength of their situation, or retired into the north, or the islands, were still governed by their own customs, and were never acquainted with domestick or foreign slavery. *Inter instrumenta servitutis reges habuere*, C. *Tacit.* The *Saxons* or *Angli*, were no less lovers of liberty, and understood the ways of defending it : They were certainly the most powerful and valiant people of *Germany*. *Cæsar* and *Tacitus* inform us, that the ancient *Britons*
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and Saxons had no monarchs, and that our ancestors had their councils and magistrates, as well here as in Germany; that as soon as the Saxons came into this country, they had their *Micklegemots*, which were general assemblies of the noble and free men, who had in themselves the power of the nation: Sometimes they met by their delegates in the *Whittenagemots*; in some ages they were divided, in others united; sometimes under captains, in other times under kings; sometimes meeting personally in the *Miglegemots*; sometimes by their delegates in the *Whittenagemots*, does evidently testify that they ordered all things according to their own pleasure; which being the utmost act of liberty, it remained inviolable under all the foregoing changes, as appears by the confession of *Offa, Ina, Alfred, Canutus, Edward*, and other kings. And, we may be sure, those of the *Norman* race can have no more power, since they came in by the same way, and swore to govern by the same laws. These general councils were called in the time of *Ina*, *The general council of the bishops, noblemen, counts, all the wisemen, elders, and people of the whole kingdom.* *Commune concilium episcoporum, procerum, comitum, & omnium sapientum, seniorum, & populorum totius regni.* Bed. Eccl. Hist. In the time of *Edward* the elder, they were called, *The great councils of the bishops, abbots, noblemen and people.* William of Malmsbury calls them, *The general senate and assembly of the people.* *Senatum generalem & populi conventum.* Sometimes they were (in short) called, *The clergy and people*; but all express the same power, neither received from, nor limited by kings, who are always said to be chosen, or made, and sometimes deposed.

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by them. The reason of this is, that they who institute magistracy, best know whether the end of the institution be rightly pursued or not; and their kings had no power, but what was conferred upon them by the people. And all just magistracies being the same in essence, though differing in form, the same right must perpetually belong to those who put the sovereign power into the hands of one, a few, or many men. Thus the *Romans* did, when they created kings, consuls, military tribunes, dictators, or decemviri: And it is ridiculous to say, that those officers gave authority to the people to meet and chuse them; for they who are chosen are the creatures of those who chuse, and are nothing more than others, until they are chosen. This is as certain in relation to kings, as any other magistrates. This power of conferring the sovereignty was likewise exercised in *France* by the people, who made *Merovius* king, passing by the two grand children of *Pharamond's* sons to *Clodion*, and excluded his race, and gave the crown to *Pepin*, who deposed *Lewis le Debonair*, and *Charles le Gros*, who made five kings, that were either bastards or strangers, between him and *Charles le Simple*, who rejected his race and advanced *Hugh Capet*; who made *Henry* the first king before *Robert* his elder brother, and continued the crown in the race of *Henry* for ten generations, whilst the descendants of *Robert* were only dukes of *Burgundy*: The like hath been done in *Castille* and *Arragon*, by frequently preferring the younger before the elder brother; the descendants of females before those of the male line in the same degree; the more remote in blood before the nearest; and sometimes bastards before the legitimate issue: The same

same hath been done in *England*, before and since the conquest, as doth appear by many following examples.

¶ 49. Monsieur Mezaray, a great historian, gives this account of the manners of the ancient Germans: *There were, if I mistake not, three sorts of government among the Germans. In some places the people had the principal authority, and yet they often elected a prince or a king; sometimes a general, whom we call duke, from the latin word dux. But the power of these chiefs, descended entirely on the community, or people, so that it was always a mixed democracy. In other parts, as among the Gothones, the kings reigned with more power, yet not to the detriment of liberty: Their royalty was limited by laws and the reason of things. As for liberty, no people were ever so jealous of it, or ever defended it so long, and so successively as the Germans. It may indeed be said, that liberty being driven out of the best part of the world by the Roman arms, took refuge on the further side of the Rhine, where she had for her companions and guards poverty, innocence, frugality and modesty; and were, in the fastnesses of woods and morasses, sometimes on the defensive, sometimes making courageous sallies: She combated five hundred years together against tyranny, and all her train; I mean ambition, luxury, voluptuousness, flattery, corruption and divisions, the instruments which that cruel enemy of human race employs to forge manacles and fetters. The aforesaid Monsieur, in the beginning of King WILLIAM's reign, discoursing with a person of quality about the difference of the government in France and England, he broke out in this expression, *O fortunatus nimium, bona si sua norint, Angligenas?* We had once*

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(said he) in France the same happiness, and the same privileges which you have. Our laws were made by representatives of our own chusing: Our money was not taken from us, but by our own consent: Our kings were subject to the rules of law and reason: But now, alas! we are miserable, and all is lost. Think nothing, Sir, too dear to maintain these precious advantages; and if ever there be occasion, venture your life, your estate, and all you have, rather than submit to the condition to which you see us reduced.

¶ 50. The election of magistrates was the original of succession; for as the living more safely, and the freer enjoyment of property was the original cause that people associated themselves into a nation or kingdom; so, for the better attaining that end, they did set over themselves the best and wisest of their brethren to be their rulers and governors; and this administration was trusted in one or more hands, and continued for their lives, or for a longer or shorter time, as the constituents thought fit. Where the government was under a king, he usually held it for life, and then upon his decease, the people proceeded to a new election, until at last it fell into the hands of some very excellent person, who having more than ordinarily deserved of his country, the people, as well in gratitude to him, as believing they could not make a better choice than in the branches that would grow out of so excellent a stock, entailed that dignity upon his posterity. And this is the just rise of succession; all others being unjust; for he that comes in by the power of the sword, may be deprived by the power of the sword; it is nothing but the consent of the governed can give a right to succession. The next
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Successor to the crown of *England* was formerly held to have a very precarious title any further than his good disposition and capacities to sway the scepter, did recommend him to the affections of the people, (until the time of *William* the first, called the conqueror) it being very common not only to break into the succession, but even to set aside all that family and line, whenever it was known that the public might suffer by their being at the head of the government; witness the preferring of *Cassibellan* before his elder brother's sons, *Egbert* not next in blood; *Ethelwerd* and *Ethelwolf*, a monk, for want of a better, was advanced to the same honour; *Ethelstan*, though a bastard, and without any title, was elected by the consent of the nobility and people. *Eldred* by the same authority, was elected and preferred before the sons of *Edmond* his predecessor; and *Edward*, *Adalston* and *Harold*, who were all illegitimate, were chosen; and *Eldred*, against the right of his two nephews, *Edway* and *Edwin*; and *Canutus*, a foreigner; and *Hardiknute* without title; *Harold*; *Edward the Confessor* was elected king, with the consent of the clergy and people at *London*. *Annuento Clero & Populo Londini in Regem eligitur*. *Harold* the second, and *William* called the Conqueror, whilst the next heirs, *Edgar* and *Etheling* were living. *William*, called the Conqueror, confessed in his last will made at *Caen* in *Normandy*, That he neither found, nor left the kingdom as an inheritance. *Neminem Anglici regni constituo hæredem, non enim tantum decus hæreditario jure possedi*, Ibid. If he possessed no right, but what was conferred upon him, no more was conferred than had been enjoyed by the antient kings, according to the approved laws which he

he swore to observe. Those laws gave no power to any, till he was elected, and that which they then did give was so limited, that the nobility and people reserved to themselves the disposition of the greatest affairs, even to the disposition and expulsion of such as should not well perform the duty of their oaths and office.

¶ 51. After the conquest, *Anno 1087*. *Robert* the elder brother was put aside, and *William Rufus*, the second son of *William* the conqueror, was elected, after whose death *Henry* the first, his younger brother, (though not next heir) was chosen by the people, not summoned by writ; and this *Henry* in his charter acknowledged that he owned his crown to the common-council of the realm. After the death of *Henry* the first, *Stephen* was chosen king, against the supposed right of *Maud* the daughter of *Henry* the first. After his death *Henry* the second was admitted king, against the like right of his mother *Maud*. After the death of *Richard* the first, king *John* (Earl of *Morton*) was elected, and *Arthur* the next heir disinherited. After the death of king *John*, *Henry* his first-born was elected against the right of *Arthur*. *Henry* the third was chosen against the right of *Eleanor*, prince *Arthur*'s sister. At the death of *Henry* the third, the states of the kingdom met and settled the government, by appointing officers, and what else was necessary for the realm; and *Edward* the fourth was set up by the people during the reign of *Henry* the sixth. Whilst the Lady *Elizabeth*, the true heir of the crown was living, *Henry* the seventh was declared king, without joining her in the title, or so much as making any mention of her right. So that till *Henry* the third, there is scarce to be found

found any precedent of succession, and since his reign the succession hath been altered several times, and the crown shifted from one family to another by act of parliament. These are sufficient proofs of the power and authority of the people.

¶ 52. *Richard* the third being entreated by a petition delivered in a roll of parchment in the name of the three estates of parliament to accept the crown, at first modestly refused; but afterwards he said, *Sith we well perceive, that all the realm is so set, whereof we be very sorry, that they will not suffer, in any wise, king Edward's line, to govern them, whom no earthly man can govern against their will; and well we also perceive, that no man there is to whom the crown can by just title appertain, as to ourself, as very right heir, lawfully begotten of our most dear father, Richard late Duke of York, to which title is now joined your election, the nobles and commons of this realm, which we of all title possible, take for the most effectual, we be content.* Speed, Fol. 908. Numb. 63. And then an act of parliament passed to establish king *Richard* the third's lawful election, *Id.* fol. 911. and sequent. *Cot. Records, fol. 709, to 714.*

¶ 53. By a clause in king *Henry's* charter it is said, "If the king invades those rights, (meaning the rights of the people) it is lawful for the kingdom to raise against him, and to do him what injury they can, as though they owed him no allegiance." By an act of parliament of the 12th of *Richard* the second it was enacted, "That if the king, through a foolish obstinacy, and contempt of his people or perverse froward will, or by any other irregular way, shall alienate himself from his people, and will not be governed
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and regulated by the rights of the kingdom, and laudable ordinances, made by the council of the Lords, and great men of the realm, but shall headily in his mad councils, exercise his own arbitrary will; from thenceforth it is lawful for them, with the common assent and consent of the people of the realm, to abrogate or depose him from the throne, and set up in his stead, somebody of a kin, or near of kin to the king of the royal stock." Which gives a latitude for chusing any deserving person of the royal stock.

¶ 54. By the acts of parliament of the 28th and 25th of *Henry the VIIIth*, it is declared, "That if such heirs as are there appointed, without regard to the *Scotch* family should fail, and no provision be made in the king's life time who should rule and govern this realm, then the realm shall be destitute of a lawful governor."

¶ 55. The act of the 13th of *Elizabeth, C. 1.* makes it treason in any after time to deny the power of parliament; to limit or alter the succession; and adds a penalty upon them who should affirm, "That any but the issue of the Queen's body had right to succeed after her."

¶ 56. King *Alfred* acknowledged in his will, joined to his life by *Menevenses*, "that he owed his crown to the bounty of his princes, and of the elders of his people."

¶ 57. The power which the people of *England* had in the disposal of the crown, during the time of the *Saxons*, is confirmed to us by that noble record which Sir *Henry Spellman* hath cited. *Concil.* Vol. I. p. 291. "That in a parliament held in *Calebutb*, *An.* 787. it was ordained and enacted, that the kings should be elected by the parliament, and being chosen they should have prudent

dent counsellors fearing God." And this right over the crown, and about the disposal of it, which our ancestors challenged and exercised all the time of the *Saxons*, they have maintained and exerted with no less courage and vigour, in every age since the coming in of the *Norman* race.

¶ 58. *William* the First (who is unjustly stiled the *Conqueror*, having subdued none but *Harold*, and those that abetted him) did obtain the crown by a free choice and submission of the peers and body of the people; and before his coronation he was made to swear that he would govern the people justly, keep and observe unto them all their old laws, and consent unto the having such further laws enacted, as should be needful for the preservation and prosperity of the realm.

¶ 59. The learned *Bracton*, a famous lawyer in *Henry* the Third's reign, l. 2. c. 16, and *Fleta*, l. 1. c. 17, saith, *That in governing of the people, the king has above him the law, by which he is constituted king, and his parliament, viz. the earls and barons; the earls in Latin being called comites, that is companions and fellows: Now he that has a fellow, has a master; wherefore if the king become lawless they must give him law, and curb him.* When we speak of curbing a king, who is in arms, in order to oppress the state, it is evident that it imports an obliging him by force either to remove his tyrannical courses, or force him to leave the land.

¶ 60. *Bracton* further says, *The king doth no wrong, in as much as he doth nothing but by law. Potestas Regis est potestas Legis, potestas juris non injuriæ, Bract. de Leg. Angl. The power of the king is the power of the law; a power of right,*

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not of wrong. Again, *Qui si facit injuriam, non est Rex, Ibid.* If the king does injustice, he is not king. In another place he has these words, *Exercere igitur debet Rex potestatem juris sicut Dei vicarius & minister in terra, quia illa potestas solius Dei est, potestas autem injuria diaboli est non Dei; & cujus horum opera fecerit Rex ejus minister erit. Igitur dum facit justitium Vicarius est regis æterno: Minister autem diaboli dum declinet ad injuriam, Ibid. l. 3.* The king therefore ought to exercise the power of the law, as becomes the vicar and minister of God upon earth; because that power is the power of God alone; but the power of doing wrong is the power of the devil, and not of God; and the king is his minister, whose work he does. Whilst he does justice, he is the vicar of the eternal King; but if he deflect from it, to act unjustly, he is the minister of the devil. He also says, that the king is, *Singulis Major, Universis Minor.*

¶ 61. In the laws of Edward the Confessor, of immortal memory, for his collecting and strict observing the laws of the kingdom as well as for the admired sanctity of his life, it is written, *That the king ought to do all things in his kingdom according to law, and by the judgment of his peers.* St. Edward's law goes further, *That unless the king performs his duty, and answer the end for which he was constituted, not so much as the name of a king shall remain in him.*

¶ 62. William Rufus, Henry the First, and Stephen, got the consent of the people, by promising to grant them their usual laws and ancient customs. Henry the First, Richard the First, king John, and Richard the Second, oblige themselves at their coronation to grant them, and then the people consented to own them as their king;

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and *Richard* the First, and king *John*, were conjured by the arch-bishops not to take upon them the crown, unless they intended to perform their oaths. If any king refused so to do, the nobles thought it their concern to hinder his coronation, until he had either made, or promised this engagement. *Henry* the Fourth, Fifth and Sixth, were only kings by act of parliament : And by what instances have been quoted (and many more that might be given) it appears that the kings of *England* were kings by virtue of a compact made between them and the people. This is apparent by the compact made with the Conqueror, by the nobility and commonalty of *England*.

¶ 63. *Florence of Worcester*, *Simon of Durham*, and *R. Hoveden*, expressly say, That *William*, called the Conqueror, made a league, or compact with the arch-bishops, bishops, earls, and nobles of the land, who met him at *Beorchem*, and swore fealty to him ; so he reciprocally being required so to do by the arch-bishop of *York*, made his personal oath before the altar of *St. Peter*, to defend the holy church of God, and the rectors of the same, to govern all the people subject to him justly, to establish equal laws, and to see them duly executed. And *Ingulphus*, his secretary, saith, That he under the severest penalties, proclaimed that the laws of king *Edward* the Confessor should be perpetual, authentic, and be observed inviolably through the whole kingdom of *England*, and as such he commended them to his justices. *R. Hoveden*, saith further, That he commanded the laws of king *Edward* to be observed in all things : And that in the fourth year of his reign, by the counsel of his barons, he made the noble
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and wise men of England, to be summoned throughout all the provinces of England, that he might hear from them who were skilled in their law, their rights and customs, and that twelve men were chosen out of every county, who swore, to their power, to tread in a right path, neither turning to the right hand, or to the left, and to make known to him the custom and the establishment of their laws.

¶ 64. *Henry the First, and Stephen who succeeded Henry, made a compact, and agreed, and promised an amendment of the laws.*

¶ 65. *The original compact (saith M. Paris) was, that the king should govern them, according to the tenor of such ancient laws, and original custom, as were received among them, according to the good, approved and ancient laws of the kingdom. The liberties in which the nobles confided, saith M. Westminster: The laws of their country, saith W. of Malmesbury: The laws of king Edward, say the forementioned authors: The proper law and ancient customs in which their fathers lived, say Hoveden, and the chronicle of Litchfield: The laws of England; the ancient laws of this realm originally established, say our statutes: The laws of the land, the good laws of the land, saith the oath of Richard the Second: The charters of the liberties of England; the common liberty, say the contenders for them with king John and Henry the third: The fundamental laws of the kingdom, let it be observed. There are frequent repetitions of these or the like expressions of a contract by the following princes of this realm, as appears by the oaths they took at their coronation, to preserve to the people their ancient rights, liberties, original customs and laws, and by the continual claim the people made to the laws of their country,*

try, the laws of king *Edward*, and *Magna Charta*, as their right. Our ancestors thought it absolutely necessary, that whoever would be their king should make a compact with them ; and be as much engaged by oath to grant their privileges to them, as they were to swear allegiance to him, and commonly that was first done by their kings, before they would engage to be their subjects. And then it must be as reasonable that he who doth continue to be their king, should continue to perform his oaths, and grant to them their privileges, as for them to continue in their duty and allegiance. And when these *Patriæ Leges*, these ancient laws of their country were violated, they constantly complained of the injustice of the action, requiring the observation of them ; and when they could not prevail by fair means, they quitted their subjection, and sought to recover their right by arms. In short, this oath and compact is the very ground and cause of the oath of allegiance ; accordingly the Lord Chancellor *Fortescue*, declares, *l. 9. p. 23*, that our kings are political kings, who receive their power from the people.

¶ 66. *Grotius de jure Bell. l. 1. c. 3. f. 11.* saith, “ Succession alone doth not determinate the manner, or specify the particular form of the governor, but is only a continuation of that right which was first settled ; and as much as was first given, is afterwards continued by succession and no more.” And then with him we may reasonably infer, that succession only brings down to kings what the first election gave, and makes them only kings according to compact, and with the condition agreed on at the first admission of their

their progenitors to the exercise of the royal authority.

¶ 67. In the year 1253, there was assembled a very full parliament, to whom king *Henry* the Third promised faithfully to ratify *Magna Charta*, and faithfully to observe all the articles of it, which king *John*, and he, at his coronation, and often since, had sworn to observe. And this was done in the most solemn and ceremonial manner that could be devised: For the king, with all the great nobility of *England*, all the bishops, and chief prelates, in their ornaments with burning candles in their hands, assembled to hear the terrible sentence of excommunication upon all the infringers of the same; and at the lighting of those candles, the king, having one in his hand, gave it to one of the prelates, saying, "It becomes not me, who am no priest, to hold this candle; my heart shall be a greater testimony;" and withall laid his hand upon his breast the whole time the sentence was reading, which was thus pronounced, *In the name of God*, &c. which done, the charter of king *John* his father was read. In the end, having thrown away their candles, they cried out, "So let them who incur this sentence be extinct, and stink in hell;" and the king with a loud voice said, "As God help me, I will, as a man, a christian, a knight, a king crowned and anointed, inviolably observe all these things." But, notwithstanding all this, the king the very next year broke his oath; and continuing to govern contrary to the charter in the year 1263, the barons made war upon him, under the command of *Simon* of *Montfort*, who succeeded so far, as to take the king and his sons prisoners; but the prince escaping out of prison,

prison, fights with *Simon* hand to hand, and slew him. The historians of those times called him not a rebel, nor a traitor, but a most devout servant of God, and the church, and a most faithful protector, shield and defender of the kingdom of *England*, and a martyr for the liberties of church and state, *Chron. of Marl* p. 228. At the end of these wars, in the year 1269, a parliament was held at *Marlborough*, where the statutes, called the statutes of *Marlborough* were enacted; in the fifth chapter of which it is decreed, "That the great charter, and the charter *de Forresta*, shall be observed in all their articles, both concerning the king and his subjects. And here (said the Lord *Coke*) it is to be observed, that after this parliament, neither *Magna Charta*, nor *Charta de Forresta*, was ever attempted to be impugned or questioned, whereupon peace and tranquillity have since ensued." *Inst.* l. 2. p. 102.

¶ 68. *Magna Charta* being only an abridgment of our ancient laws and customs, the king that swears to it swears to them all, and is not admitted to be the interpreter of it, or to determine what is good or evil, fit to be observed or annulled in it, and he can have no more power over the rest. This having been confirmed by more parliaments than we have had kings since that time, the same obligation must still lie upon them all, as upon *John* and *Henry*, in whose that time claim of right was complied. We know the value our ancestors set upon their liberties, and the courage with which they defended them; and we can have no better example to encourage us, never to suffer them to be violated or diminished.

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¶ 69. The nobility of *England*, as the Lord *Coke* observes, have ever had the laws of *England* in great estimation and reverence, and would never suffer them to be changed. This made *Henry* the First, (saith he) write to Pope *Pascal* thus: "Let your holiness know, that, by the help of God, whilst I live, the dignity of our kingdom of *England* shall not be diminished; and if I, which God forbid, should so far deject myself, my nobles, and all the people of *England*, would never suffer them to be altered." Inst. l. 2. p. 97.

¶ 70. In the letters which all the nobility of *England*, by assent of the whole commonalty assembled in parliament at *Lincoln*, wrote to Pope *Boniface*, we find these words; "By virtue of our oath, we are bound to the observation and defence of the liberties, customs, and the laws of our country, which by the help of God, we will defend with our whole power; nor do we, nor will we permit our Lord the King, though he were willing to attempt things so unusual, undue, and prejudicial to the royal dignity:" And this was signed by 104 earls and barons, in the name of all the commonalty of *England*. Rot. Parl. 28 Ed. 1.

¶ 71. "King *John* received the crown by way of election, as being chosen by the states, saith *Daniel*, p. 127. *M. Paris* saith, that all consented to the speech of the arch-bishop, that none ought to succeed another in the kingdom, unless he were elected by the community, and thereupon they elected the count, and took him for their king." *M. Paris*, p. 138.

¶ 72. King *James* in his fourth speech at *Whitehall*, A. D. 1609, saith, "That the king
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was *Lex Loquens*, after a fort, binding himself by a double oath to the observation of the fundamental laws of his kingdom; tacitly, as by being a king, and so bound to protect, as well the people, as the laws of his kingdom, and expressly by his oath at his coronation; so as every just king, in a settled kingdom, is bound to observe that paction made to his people by his laws, in framing his government agreeable thereunto."

And therefore a king governing in a settled kingdom, ceases to be a king, and degenerates into a tyrant, as soon as he leaves off to rule according to the laws. Therefore all kings that are not tyrants, or perjured, will be glad to bind themselves within the limits of the laws, and they that persuade them to the contrary, are vipers and pests, both against them, and the commonwealth.

¶. 73. As the subjects of the king are born to lands and other things, so are they born to inherit and enjoy the laws of this realm, that so every man have an equal benefit by law. *Plow.* 55. B. *Kitch of Courts*, p. 4. It is therefore called common right, and is a greater inheritance to every man, than that which descends to him as heir, from his parents. Because thereby his goods, lands, wife, children, his body, life, honour and estimation, are protected from injury and wrong, 2. *Inst.* 56. This common right is called the law of the subject, and the judges are sworn to execute justice (as my Lord *Coke* says, 12 *Co.* 64.) according to law and custom of *England*. All which do prove, how justly the laws are called the great inheritances of the subject, and the inheritance of inheritances, without which inheritance we have no inheritance. The king's prerogative is law too; because as it was resolved,

the king hath no prerogative, but that which the law of the land allows him, *Co. 76. Jud. Jenkins Works*, p. 131. The law says, the king is the fountain of justice, and all justice which is done within the realm, is said, and said properly, to flow from this fountain; but then it must always run in the certain and known channels that the law hath prescribed.

¶ 74. *Glanvil* who was a learned lawyer, and chief justice in *Henry the Second's* days, above 500 years ago, writ a book of the common laws of *England*, which is the ancientest of any extant, touching the subject, informs us, that there was in his time such a thing as high treason against the kingdom: His words are these; *Crimen, quod in legibus dicitur Crimen læsæ Majestatis, ut de Nece, vel Seditone, Personæ Domini Regis vel Regni, &c.* *Cowel's Inter. Tit. Glanvil*, l. 1. C. 2. p. 1.

¶ 75. Those who flatter a King that he is above the law, do most notoriously contradict one of the first axioms of our regal government, which is, that *Lex facit Regem*; and he hath originally subjected himself to the law by his coronation oath. *Jud. Jenkins Works*, p. 134. *Mirror*, Ch. 5. S. 1. p. 225. This proves a King of *England* to be King by law; as also that the coronation oath is a fundamental law of this kingdom, and is antecedent to the subjects homage and oath of fealty and that our first monarch was made so by their own consent. He is a legal King, his authority is under a legal extent; and as *Fortescue* says, his power royal is restrained by power politic, for *de Laudibus Legum Angliæ*, p. 16. Therefore a King's grant of any favour made contrary to law, is void, by another

ther axiom of our government, *Nil aliud potest Rex, &c. quam quod de jure potest, Bracton*. He can do nothing as King, but what he can legally do. So that it is made the very essence of our Kings, to govern according to law; for where the will governs, and not the law, there he is no longer King; *ubi Voluntas imperat, &c.* The law is to be the only rule and measure of his government; and upon this account it is truly said, that a King of *England* can do no wrong, nor will his prerogative be any warrant to him to do an injury to any one. *Noy. 182. 1 Co. 44. B. applaud. 247. Jenk. Works. 41.* He cannot by his grant or charter alter a law, nor alter inheritance, for this would be wrong, which he cannot do. *Fortescue. C. 9. P. 256, 9 Co. 123. Bro. Abr. tit. Perog. N. 15. 18. 53.*

¶ 76. By the 11. *Rich. 2. C. 10.* It is ordained and established, That neither letters of the signet, nor of the King's privy seal shall be from thence forth sent in damage or prejudice of the realm, nor in disturbance of the law. *Vid. Sir Rob. Cot. Abri. 1 R. 2. Nu. 96.*

¶ 77. In the 11. *R. 2. Rot. Parl. Pars. 1, 2, 3. Tresilian* and five judges more, with one of the King's serjeants at law, and one of the King's council at law, for delivering their extravagant, illegal and extra-judicial opinions, that the King might avoid a statute, ordinance and commission, which had been made for the safety of both King and kingdom in the last parliament, by the peers and commons of the land, with the King's assent; were executed as false traitors, by a judgment, from the most Supreme Court of Judicature in the kingdom, the parliament.

¶ 78.

¶ 78. By the records, 7 *H. 4. Rot. Parl.* Numb. 59. It is declared, "The King has no prerogative that derogates from justice and equity. And *Bracton*, in lib. 3. c. 9. saith, the regal power is according to law: He has no power to do any wrong, nor can the King do any thing but what the law warrants." Our records of greatest authority with us declare, "That our Kings owe all their power, not to any right of inheritance, of conquest, or succession, but to the people." So in the parliament rolls of *Hen. 4.* Numb. 108. we read, "That the kingly office and power was granted by the commons to King *Henry* the fourth, and before him, to his predecessor *Richard* the second." Thus the House of Commons ordered expressly to be entered upon record, "That they had granted to King *Richard* to use the same liberty that the Kings of *England* before him had used:" Which because he abused, to the subversion of the laws, and contrary to his oath at his coronation, the same persons that granted him that power, took it back again, and deposed him. The same men, as appears by the same record, declared in open parliament, *That having confidence in the prudence and moderation of Henry the fourth: They will and enact, That he enjoy the same authority that his ancestors enjoyed:* By which, and other examples, it is plain that the kingly office is nothing but a trust, and a gift by *Vox Populi* of all the people by their delegates, in parliament assembled.

¶ 79. Where the monarchy is regular, as in *Germany, England, &c.* the Kings can neither make nor change laws: They are under the law, and the law is not under them. Their letters or commands

commands are not to be regarded. In the administration of justice, the question is not what pleases them, but what the law declares to be right, which must have its course, whether the King be busy, or at leisure, whether he will or not. The King who never dies, is always present in the supreme courts, and neither knows, nor regards the pleasure of the man that wears the crown.

¶ 80. We have had no King since *William* the first, more hardy than *Henry* the eighth, and yet he acknowledged the power of making, changing, and repealing laws to be in the parliament. It was not he, but the parliament that dissolved the Abbies: He did not take their lands to himself, but received what the parliament thought fit to give him: He did not reject the supremacy of the Pope, nor assume any other power in spiritual matters than the parliament conferred upon him.

¶ 81. The judges of the land, who are chosen by the King, by the advice of his council, are so far from depending upon the will of the King, 18 *Edw.* 3. *Cap.* 1. that they swear faithfully to serve the people as well as the King, and to do justice to every man according to the law of the land, notwithstanding any writs, letters, or commands received from him; and in default thereof, they are to forfeit their bodies, lands and goods, as in cases of *treason*. Queen *Elizabeth*, and her counsellors, pressed the judges very hardly to obey the patent under her great seal, in the case of *Cavendish*; but they answered, *That both she, and they had taken an oath to keep the law, and if they should obey her commands, the law would not warrant them, &c.* *Anderson's Rep.* p. 155. And besides the offence against God, their country, and the commonwealth, they alledged the example

ample of *Empson* and *Dudley*, (who were executed as traitors, as were *Gavestone*, the two *Spencers*, *Tresilian*, *Strafford*, and others, for subverting the laws of the land in obedience to the king's command) whereby they said, *They were deterred from obeying her illegal commands*. They who had sworn to keep the law; notwithstanding the king's writs, knew that the law depended not upon his will: And the same oath that obliged them not to regard any command they should receive from him, shewed, that they were not to expect indemnity by it; and not only, that the king had neither the power of making, altering, mitigating, or interpreting the law, but that he was not at all to be heard, in general or particular matters, otherwise than as he speaks in the common course of justice, by the courts legally established. According to *Magna Charta*, judgments are to be passed by equals: No man can be imprisoned, disseized of his freehold, deprived of life or limb, unless by sentence of his peers. And *Bracton* says, *that in receiving justice the king is equal to another man*: Which could not be, if judgments were given by him, and he were exempted from the judgment of all by that law, which has put all judgments into the hands of the people. This power is executed by them in grand or petty juries, and the judges are assistants to them in explaining the difficult points of the law, in which it is presumed they should be learned. The strength of every judgment consists in the verdict of these juries, which the judges do not give, but pronounce or declare. And the same law that makes good a verdict given contrary to the advice or direction of the judges, exposes them to the penalties, if upon
their

their own heads, or a command from the king, they should presume to give sentence, without, or contrary to a verdict; and no pretensions to a power of interpreting the law, can exempt them if they break it: Nay, even in special verdicts, the judges are only assistants to the juries, who find it specially, and the verdict is from them, though the judges having heard the point argued, declare the sense of the law thereupon.

¶ 82. By an act of the First of *William and Mary*, declaring the rights and liberties of the subject, and settling the succession of the crown: They do in the first place, (as their ancestors in like cases, have usually done) for the vindicating and asserting their ancient rights and liberties, declare,

I. *That the pretended power of suspending of laws, or the execution of laws by regal authority without consent of parliament, is illegal.*

II. *That the pretended power of dispensing with laws, or the execution of laws by regal authority, as it hath been assumed, and exercised of late, is illegal.*

III. *That the commission for erecting the late court of commissioners for ecclesiastical causes, and all other commissions and courts of like nature, are illegal and pernicious.*

IV. *That levying money for, and to the use of the crown, by pretence of prerogative, without grant of parliament for longer time, or in other manner than the same is, or shall be granted, is illegal.*

V. *That it is the right of the subjects to petition the king, and all commitments and prosecutions for such petitioning, are illegal.*

VI. *That the raising, or keeping a standing army within the kingdom, in time of peace, unless*

less it be with consent of the parliament, is against law.

VII. That the subjects, which are protestants, may have arms for their defence, according to their conditions, and as allowed by law.

VIII. That election of members of parliament ought to be free.

IX. That the freedom of speech, and debates, or proceedings in parliament, ought not to be impeached, or questioned in any court or place out of parliament.

X. That excessive bail ought not to be required, nor excessive fines imposed; nor cruel and unlawful punishments inflicted.

XI. That jurors ought to be impannelled, and returned; and jurors which pass upon men, in trials for high-treason, ought to be free-holders.

XII. That all grants, and promises of fines and forfeitures of particular persons, before conviction, are illegal and void.

XIII. And that for redress of all grievances, and for the amending, strengthening, and preserving of the laws, parliaments ought to be held frequently. And they do claim, demand, and insist upon all, and singular the premises, as their undoubted rights and liberties; and that no declarations, judgments, doings, or proceedings to the prejudice of the people in any of the said premises, ought in any wise to be drawn hereafter into consequence or example. And whereas it hath been found by experience, that it is inconsistent with the safety and welfare of this protestant kingdom, to be governed by a Popish prince, or by any king or queen marrying a papist, it is declared, that all and every person, or persons, that is, are, or shall be reconciled to, or shall profess the popish religion,

religion, or shall marry a papist, shall be excluded, and be forever incapable, to inherit, possess, or enjoy the crown and government of this realm, and Ireland, and the dominions thereunto belonging, or any part of the same, or to have, use or exercise any regal power, authority, or jurisdiction within the same ; and in all, and every such case or cases, the people of these realms shall be, and are hereby absolved of their allegiance ; and the said crown and government shall from time to time descend to, and be enjoyed by such person or persons, being protestants, as should have inherited and enjoyed the same, in case the said person or persons, so reconciled, holding communion, or professing, or marrying, as aforesaid, were naturally dead.

¶ 83. It is plain from what hath been said, that all government, authority and magistracy proceeds from the people. Now I will shew, that they have authority to set aside the next heir to government, when unfit or incapable to govern : And also, to dispossess them that are in possession, if they observe not the laws and conditions by which, and for which their dignities were given them ; and when it is done upon just and urgent causes, and by public authority of the whole body, the justice thereof is plain. As when the prince shall endeavour to establish idolatry, or any religion which is repugnant to the scripture, contrary to the laws of the land, or to destroy the people, or make them slaves to his tyrannical will and pleasure. For as the whole body natural may cure its head when out of order, so may the body politic cure or purge their heads, when they are pernicious or destructive to the body politic ; seeing that a body civil may have divers heads by succession,

or election, and cannot be bound to one as a body natural is ; which body natural, if it had ability to cut off its aching or sickly head, and take another, I doubt not but it would do it, and that all men would confess it had authority sufficient, and reason so to do, rather than that the other parts should perish, or live in pain and continual torment : So may the body politic chuse another head and governor in the room of its destructive one ; which hath been done for many ages, and God hath wonderfully concurred (for the most part) with such judicial acts of the commonwealth against their evil princes ; not only prospering the same, but by giving commonly some notable successor in the place of the deprived, thereby both to justify the fact, and remedy the fault of him that went before. *Saul* was slain by the *Philistines*, by God's appointment for not fulfilling the law and limits prescribed unto him. *Ammon* was lawful King also, yet he was slain for not walking in the way prescribed him by God, 2 *Kings* xxi. and *David* and *Josiah* were made kings in their rooms, who were two most excellent princes. *Shalum*, *Pekabiah* and *Pekah*, three wicked and idolatrous kings of *Israel*, were slain one after another ; and all the kings of *Israel* who violated the covenant and conditions annexed to their crowns, did, for the most part, lose their lives, and underwent the utter extirpation of their posterities from the crown. *Rehoboam* (for only threatening to oppress the people) was deserted by them, who chose *Jeroboam* his servant in his stead, which was approved of by God.

¶ 84. If I should instance all the kings of *Israel*, whom God permitted (or appointed) to be

be slain, and those that were carried away captive by the Heathens, for their unjust government, I should be too copious. But I will leave the *Hebrews*, and give you several examples of the depriving of evil princes of the government in *France, Spain, Portugal, &c.* and last of all in *Scotland and England*, and the happiness and prosperity that did attend those proceedings ; and by consequence God approved thereof, and does approve of such acts.

¶ 85. There were two great changes made of the royal line in *France* ; the first from *Pharamond* to the line of *Pepin*, and the most remote in blood of his descendants, having often been preferred before the nearest, and bastards before the legitimate issue ; they were at last all laid aside. The second from *Pepin* to *Hugo Capet*, in which family the crown remains to this day. *Chelderick* the Third was deprived for his evil government, and *Pepin* was chosen king in his stead, whose posterity reigned for many years after him, and were brave kings, as history doth testify. *Lewis* the third, and *Charles*, surnamed *Le Gros*, were both deprived by the states of *France*, for their evil government, and such who were thought more worthy appointed in their stead. All *French* historians do attribute to these great changes that have been made by the people, the prosperity and greatness of their kingdom. *Henry* the third, before he was king of *France*, was chosen king of *Polonia*, who departed thence without leave, and not returning according to his promise, was deprived by act of parliament.

¶ 86. In *Spain*, *Rotherick* and *Alphonso* were deprived for their evil government. *Bernard* the son

son of *Charlemaine* of *France*, was rejected because they would not be governed by a *Frenchman*. *Alphonso* the third, surnamed *The Great*, a brave prince, yet at last fell into tyranny, was twice deposed. *Puff. p. 29, 30.* *Favila* king of *Castile*, a cruel tyrant, was deposed by the *Castilians*, who abjured him, and set up *Magi*, like that of the *Persians*, to govern them. *Alphonso* the fourth being judged unfit to govern, was obliged to surrender the kingdom to his brother *Ramicus*. *Ordonius* usurped the crown, and banished *Santius Crasius*, the people rose to restore their good king, and pulled down *Ordonius*, and set up *Sanctius* the second time. *Blanch*, wife of *Lewis* the eighteenth of *France*, was put by, and the younger sister *Beringaria* set up in her stead. *Alphonso* the tenth was deposed, and *Flavio Suintilla*, was deprived for his evil government, together with all his posterity, and *Sissinando* chosen in his room. *Peter*, surnamed *The Cruel*, was twice dethroned; the last time, they sent for a bastard brother of his named *Henry*, Count of *Trastaramara*, bastard to *Alphonso*, the eleventh king of *Castile*, that lived in *France*, desiring him to come with some *Frenchmen*, to assist them in that act, and take the crown upon himself; which he did by the help of the *Spaniards*, and slew him in fight hand to hand, and so enjoyed the crown, and his posterity after him: This *Henry* was a most excellent king, as well for his courage in war, as for his other brave qualities. *Henry* the Fourth, called *The scandal of Spain*, who being incapable of getting children, hired another man to lie with his queen, and declared that daughter so begotten, heir apparent, for which the nobility entered in-
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to an association, deposed him, and gave the crown to *Alphonso* the eleventh. King *Ferdinand*, and his daughter who was married to the king of *Castile*, and her uncle by the father's side, were rejected, and the crown given to *John*, a knight of *Calatrava*, and bastard to an uncle of *Ferdinand* their king.

¶ 87. In the year 1581, the states of *Holland*, in a general assembly at the *Hague*, abjured all obedience and subjection to *Phillip* king of *Spain*; and in a declaration justify their so doing; *For that by his tyrannous government, against faith so often given and broken, he had lost his right to all the Belgic provinces; that therefore they deposed him*, Thuan, l. 74. From that time to this, no state or kingdom has prospered so much as they.

¶ 88. In *Portugal*, *Alphonsus* was deposed because he was young, and his mother encroaching upon their liberties. *Don Sancho* the second was deprived by the universal consent of all *Portugal*, and *Don Alanso*, his brother set up: Who, amongst other great exploits, was the first that set *Portugal* free from all subjection, dependance, and homage to the kingdom of *Castile*. And his son, who was his successor, builded and founded above forty great towns in *Portugal*; who was likewise a most rare Prince; and his offspring ruleth to this day.

¶ 89. In *Denmark*, *Christopher* the second, *Waldemar*, *Erick* were deposed and *Christian* the second Anno 1523, was deposed for his evil government, and *Frederick* Duke of *Holstein* was chose in his stead: The ancestors of the present King of *Denmark*; *Cisternus*, for his intolerable cruelty, was deprived, and his three children disinherited,

disinherited, and his uncle *Frederick*, Duke of *Holstein*, was chosen in his stead, whose offspring remaineth in the crown.

¶ 90. In *Poland*, *Leſticus* the second, *Anno* 750, *Lescus*, the first, *Miccislauus*, senior, and *Uladislaus* the third, firnamed *Loſticus* were deposed for their male-administration. *Sigismond*, a *Hungarian*, was refused the crown, though heir to it because he was a *Hungarian*. *Henry* of *Anjou*, deserted *Poland* upon his being made King of *France*, upon which they chose a new King.

¶ 91. In *Sweden*, *Ingellus*, *Amund*, *Swercher*, *Waldemar*, *Birgir*, *Magnus*, and *Albert* his successor, were all twice deposed; *Erick* was twice deposed, and *Christopher*, Duke of *Bavaria*, made King in his stead; *Charles Cnateson*, was deposed, and *Christian* King of *Denmark*, crowned in his stead, who likewise turning tyrant was deposed, and *Charles* restored again and deposed again for his tyranny, and restored again and died in possession. *Stenture* reigned fourteen years as regent not as king, was deposed, and *John* the second made King, who turning tyrant was deposed, and *Stenture* made regent again. *Erick* was by the universal rising of the people, deposed for his tyranny, and his brother *Charles* made King in his stead. *Sigismond* of *Poland*, about the beginning of this age, was deposed for attempting to restore *Popery*, and, in a full assembly of the estates, declared incapable to reign, and *Charles*, Duke of *Sondermaria*, his uncle, made King in his room, who was the father of the great *Gustavus Adolphus*.

¶ 92. *Tarquin* being expelled for his tyranny, the *Romans* had such a hatred against the family, that they would never after name any of their children *Tarquin*. Upon the alteration of their government.

government, *Junius Brutus* was made consul, who executed justice upon his own sons, and stood himself upon the judgment-seat, and saw them put to death, for conspiring to restore the family of *Tarquin* to the throne. *Romulus*, *Numa Pompilius*, *Tullus Hostilius*, *Ancus Marticus*, *Tarquinius Priscus*, *Servius Tullius*, and *Tarquinius Superbus*, were deposed for their tyranny, and the *Roman* government turned into a commonwealth, the best regulated at first that ever the world saw. The deposing the *Roman* emperors would be endless to enumerate : No man can pretend that they had a divine right, who were most of them of mean birth and proclaimed by the soldiery. *Valentinian* was the son of a Roper; *Jovian* of mean birth, and a foot-soldier, and the like ; they came in by force, and were driven out by force ; and thirty-six of them were murdered by one another. There are no parts of history, but are full of examples of this kind, and the nearer we go back to the beginning of government, the more instances we have of the people's setting up, and pulling down their monarchs for their tyranny.

¶ 93. Nay, the very Emperors of *Germany*, when they infringed the rules of government, which they had sworn inviolably to observe, and violated the fundamental laws of the empire, the states have opposed and resisted them, and finally deprived them of the empire. The *German* lawyers have always held, and do still hold it for a certain truth, *that when they abuse their power, for the overturning of the state, or for invading the rights of the Princes of the empire, that it is a right inherent in the empire, to deprive them of their imperial dignity, and to confer the same on another.* This is declared by *Lampadius*, *Arnizæus*, *Diderick*,

derick, Cenringius, Lambert, Schafnaburgh, Aventin, l. 7. Annal. Cuspin, and many others, Lewis the Good, in the year 833, Henry the fourth, and Wenceslaus in the year 1400 were deposed by the electors of the empire for their evil government.

¶ 94. In *Scotland*, the nobility and gentry, &c. took arms against *Durstus* their King for his intolerable cruelty, and slew him and his confederates in battle (and put by his sons, lest they should imitate their father's vices) and elected *Ewen*, his brother in his stead, who leaving a bastard son, the kingdom was conferred on him. *Cratby Cinthus*, having surprized and slain *Donald*, for his tyranny, he was unanimously chosen King. *Ethus*, was for his evil government, deprived, and *Gregory* made King in his stead. *James* the third, of *Scotland*, for endeavouring to introduce an arbitrary government, after the violation of many solemn promises to the contrary; the nobility and gentry, in great numbers, assembled themselves together, having his eldest son, about sixteen years of age, at their head to oppose his designs; who met in the field of *Sterling*, where the King was deserted and slain, and his son was declared King; and in a free parliament, soon after called, the battle of the field of *Sterling* was fully debated, and by the unanimous consent of the three estates, it was declared and adjudged, *That those that were slain in the said field of Sterling, in the assistance and defence of the late King, had fallen by their own deserving, and justly suffered the punishment of their rashness: That the conquerors were innocently guilty of the blood there shed, and fairly acquitted of any pursuit. The act of parliament condemns the arbitrary proceedings*

ings of the said King *James* the third, fines and forfeits most of the nobility and gentry that stood by him at the battle of *Sterling*, and justifies and clears all those that fought against him, in defence of their laws and liberties, as is to be seen in the *Scotch* acts of parliament, printed by the authority of Queen *Mary* of *Scotland*; of which see more in *Buchanan*, *Drummond's* history of the five *James*, and others. *Buchanan* speaking of his country, saith, *That it was free from the beginning; created itself Kings upon this very condition, that the empire being conferred on them by the suffrages of the people, if the matter required it, they might take it away by the same suffrages*: Of which law many footsteps have remained to our age.

¶ 95. I will end this narration with examples out of *England* (before and since the conquest) *Archigallo*, *Emerian*, *Vortigern*, *Sigibert*, Kings of the *West Saxons*; *Beornred*, and *Alured*, Kings of *Northumberland*, were all deprived of their thrones for their evil government, and such who were thought more worthy preferred in their stead. King *Edwin* being deprived for his unjust government, the crown was given to his brother *Edgar*, who was one of the rarest Princes that the world had in his time, both for peace and war, justice, piety and valour. *He kept a navy* (saith *Stow*) *of three thousand and six hundred ships, distributed in divers parts for the defence of the realm, and he built and restored forty seven monasteries at his own charge, &c.*

¶ 96. After the conquest, King *Edward* the second, *Richard* the second, and *Richard* the third, were, for not governing according to the laws of the land, deprived of the government, and *Edward*

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the third and *Henry* the fourth and seventh were preferred in their rooms, who were most rare and valiant princes, who have done many important acts in this kingdom, and have raised many families to nobility, put down others, changed states both abroad and at home, altered the course of descent in the blood-royal, and the like; which was unjust, and is void to this day, if the changes and deprivations of the former Kings were unlawful, (according to the doctrine of *passive obedience* without reserve) and consequently all those Princes that have succeeded them (which yet never failed of a constant descent) were usurpers; and those who do pretend to the crown of *England* at this day, have no title; but by virtue of the late Act of Parliament (which was never denied, or dare be denied) for that from those men they descended, who were put in the place of the aforementioned deprived, by the people. And this is, and hath been the custom and practice of all kingdoms and common-wealths, to deprive their Princes for their evil government, and that God hath, and does concur with the same, is plain from the examples beforementioned, of the prosperity and happiness that hath attended those acts.

¶ 97. In the reign of King *John*, the barons, prelates and commons, took a solemn oath, *That if he should refuse to grant and confirm their laws and liberties, they would make war against him so long, and withdraw themselves from their allegiance to him, until he should confirm to them by a charter, ratified with his seal, all things which they required. And if the King should afterwards peradventure recede from his oath, as they verily believed he would, by reason of his double dealing, they would forthwith, by seizing on his castles, compel him to give*

give satisfaction. He afterwards breaking his oath and promise, the barons said, *What shall we do with this wicked King? If we let him thus alone, he will destroy us and our people; it is expedient, therefore, that he should be expelled the throne. We will not have him any longer to reign over us.* And accordingly they sent some of their own body, both lords and commons *beyond sea*, for *Lewis*, the Prince of *France*, whom they had chosen (*M. West. 274.*) to be their King, and swore fealty to him, but they afterwards discovering, that he had sworn that he would oppress them, and extirpate all their kindred, they rejected him and set up *Henry the third*, King *John's* eldest son, who was not full nine years old. The Earl of *Pembroke*, Great Marshal, spoke to this effect to them, *though we have prosecuted the father, and that justly, yet this young infant is pure and innocent from those his doings: You know what the scripture saith, The child shall not bear the iniquity of his father: Come, let us pity his tender years, and make and constitute him our King, and throw off this yoke of vile slavery from us, this French King's son and his people.* At last the whole council, as if they had been inspired from heaven, cried out with one voice, *Fiat sic, fiat Rex, fiat Rex; be it so, he shall be our King, Ann. Dom. 1216.* So the day was appointed for his coronation, which was *Simon and Jude. Knighton de vent. Angliæ. Col. 2426, 2427, and vid. Mat. Par. f. 289, and 309.*

¶ 98. In the reign of *Edward the second*, the parliament met at *London*, and declared by common consent, *That he was unworthy of the crown; and for many causes deposed him, and chose his son Edward by unanimous consent, and his election was publickly declared in Westminster-Hall.*

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Some of both houses were sent to *Edward* the second to acquaint him with the election of his son, and to require him to resign the crown, which accordingly he did, all the people consented to the election; as did all the prelates, and the archbishop made an oration on these words, *Vox Populi, Vox Dei*, exhorting all to pray for the King elect.

¶ 99. In the 39th year of *Henry* the sixth, *Richard* Duke of *York*, lays his claim to the crown in parliament; and after long arguments made, and deliberate consultation had among the peers, prelates and commons of the realm; says *Grafton*, *It was condescended and agreed, that King Henry having been taken for King above thirty-eight years, that he should enjoy the same during his life: But if he either died or resigned, or forfeited the same, for infringing any point of this concord, then the said crown and authority royal should immediately descend to the Duke of York, if he then lived, or else to the next heir of his line, or lineage; and that the Duke, from thenceforth should be protector and regent of the land, provided always, that if the King did closely, or apparently study, or go about to break, or alter this agreement, or to compass or imagine the death or destruction of the said Duke, or his blood, he should forfeit the crown, and the Duke of York shall have it.* These articles were not only written, sealed and sworn to, by the two parties, but also were enacted in the high court of parliament. *Grafton's Chron.* fol. 647. vid. *Cott. Records* 39 *Henry* the sixth, from No. 10 to No. 33. But Duke *Richard* being slain in the battle of *Wakefield*, his son *Edward* called a council of lords spiritual and temporal, and laid open his title to the realm to them, with the articles

ticles of agreement. After the Lords had considered and weighed his title and declaration, they determined by authority of the said council; forasmuch as King *Henry* the sixth, contrary to his oath, honour and agreement, had violated and infringed the order taken and enacted in the last parliament; and also, because he was insufficient to rule the realm, and unprofitable to the common-wealth, he was therefore by the aforesaid authority, deprived and rejected of all kingly honour and regal sovereignty, and incontinent *Edward*, Earl of *Marche*, was by the lords in the said council assembled, named, elected, and admitted for King and governor of the realm. And the people being got together in *St. John's* Fields to behold the muster that was there that day, the Lord *Fauconbridge*, who took the musters, wisely declared to the multitude, the offences and breaches of the late agreement done by King *Henry* the sixth, and demanded whether they would have the said King *Henry* to reign any longer over them, to whom they with one voice, answered, *nay, nay*; then asking them if they would serve and obey the Earl of *Marche*, as their sovereign lord, they answered, *yea, yea*, crying King *Edward*, with many great shouts, and clapping of hands. The lords being advertised of the loving consent, which the commons frankly and freely of their free will had given; they all presently, with several of the most substantial commons, went to *Baynard's* castle, and acquainted the said Earl with their election and admission, and the loving assent of the faithful commons; and the next day being conveyed to *Westminster*, his title and claim to the crown was declared; first as son and heir to

Richard

Richard his father, right inheritor to the same : Secondly, by authority of parliament, and forfeiture committed by King *Henry*. And the commons being again demanded, if they would admit and take the said Earl as their sovereign lord, all with one voice cried *yea, yea* ; which agreement concluded, he was then again proclaimed, and the 29th of *June* following he was crowned King at *Westminster*, by the name of King *Edward* the fourth, *Graft. Chron. f. 652, 653, 658. Vid. Speed's Hist. f. 851. Col. 1, 2. Stow, f. 414. Col. 2. 415. Col. 1.*

¶ 100. Thus by the common usuage of *England*, which is the common law of *England*, Kings (degenerating into tyrants) may be deprived for evil government, and others set up in their stead, is plain from the foregoing examples.

¶ 101. That all magistrates and governors do proceed from the people, is plain from the following examples in scripture. *Deut. xvi. 18, 19. The children of Israel are commanded to make judges and officers throughout their tribes, Deut. xvii. 14, 15. When thou art come into the land, &c. and shalt say, I will set a King over me, like as all the nations that are about me : Thou shalt in any wise set him a King over thee, whom the Lord thy God shall chuse : One from amongst thy brethren, shalt thou set over thee ; thou may'st not set a stranger over thee. So God did only reserve to himself the nomination of their King ; by which he designed to make his people more happy than they could expect by their own peculiar choice : He knowing the heart of man, and the corruption of their nature, did nominate them who were most fit to govern his people ; yet God did not require*

require the *Jews* to accept him for King whom he nominated, but left it to their own free will, whether they would approve of him or not, is plain from the following examples. Upon the death of *Saul*, *David* was set up by the appointment of Almighty God, yet there was only the tribe of *Judah* that followed *David*, and made him King; eleven tribes followed *Ishbosheth*, *Saul's* son, whom they made King; and though *David* had a long war against them, yet he doth not call them rebels; neither do we find that God punished them or sent any judgment upon them for not accepting of *David* as King; and when *Rechab* and *Banab* had slain *Ishbosheth*, and brought his head to *David* at *Hebron*, saying, *Behold the head of thine enemy*: Yet *David*, instead of rewarding them, caused them to be slain for killing of *Ishbosheth*, whom he calls a righteous person, not a rebel: After whose death all those tribes came to *David*, and made a compact with him for the performance of such conditions, which they thought necessary for the securing of their liberty, before they made him King, 2 *Sam.* chaps. 2, 3, 4, 5.

¶ 102. The making of *Solomon* King by *David* his father, was not thought sufficient without the people's consent, else why did the people anoint *Solomon* and make him King the second time.

¶ 103. *Saul*, who left behind him many children, yet not any of them succeeded him, except *Ishbosheth*, who was not his eldest son, who was anointed King by *Abner*, the general captain of that nation, to whom eleven tribes followed, until he was slain, and then they chose *David*. And *Jonathan*, one of *Saul's* sons so much praised in holy scripture, being slain in war, his son *Mephibosheth*

boshetb did not succeed to the crown, though by succession he had a more plausible right to it than *David*: God promised *David*, that his seed should reign for ever after; yet we do not find this performed to any of his elder sons, nor to any of their offspring, but only to *Solomon* his youngest and tenth son. After the death of *Solomon*, *Rehoboam*, the lawful son and heir of King *Solomon*, came to *Sichem* where all the people of *Israel* were assembled together, for his coronation and admission to the crown, (for until that time he was not accounted as true King) but he refusing to ease them of some heavy impositions which they had received from his father, ten of the twelve tribes refuse to admit him their King, and chose *Jeroboam* his servant, and made him their lawful King, and God allowed thereof; for when *Rehoboam* had prepared one hundred and fourscore thousand chosen men, to reduce those ten tribes to his obedience, God commanded him to desist by his Prophet *Shemajah*, and so they did. *Ammon* being slain by his own servants, the people of the land slew them that had conspired against him, and made *Josiah* his son, King in his stead, which had been most impertinent if he was King before they made him so.

¶ 104. We read *Judg.* viii. 21, 22, 23. That after *Gideon* had slain *Zebab* and *Zalmunna* with the *Midianites*, the children of *Israel* said unto *Gideon*, Rule thou over us, both thou and thy sons, and thy sons sons also; for thou hast delivered us from the hand of *Midian*. But he refusing their offer, they afterwards made his bastard son *Abimelech*, King, though he had seventy lawful begotten sons.

¶ 105. *Zimri* having slain *Asa*, king of *Judah*, reigned in his stead, but the children of *Israel* hearing thereof, rejected him, and made *Omeri*, the captain of the host, king of *Israel*, 1 *Kings* xvi. 15, 16.

¶ 106. The *Israelites* met together, and chose *Ehud*, *Gideon*, *Sampson*, *Jephthah*, and others, to be their leaders, whom they judged fit to deliver them from their enemies. By the same right they assembled at *Mispeth*, to make war against the tribe of *Benjamin*, when justice was denied to be done against those who had abused the *Levit's* concubine. *Jehu*, and all the other kings of *Israel*, whether good or bad, had no other title than was conferred upon them by the people, which could not have given them any, unless they had met together; nor met together, without the consent, and against the will of those that reigned, unless the power had been in themselves.

¶ 107. The kingdom of *Edom* appointed a deputy to rule over them instead of a king, there being no king in *Edom*. 1 *Kings* xxii. 47. See *Maccab.* ix. 28, 29, 30. and xiii. 8, 9. and xiv, 41, to 49. by which it is further apparent, that their kings and governors were chosen by the people. These and the like determinations of nations about admitting, or refusing of princes to reign, or not to reign over them, or depriving them because of their evil government, when they are found incurable, provided such nations acted for wise and good ends, and were moved by just causes, and sufficient reasons, their resolutions were not only allowed, but approved, of God, the lover of justice, as corresponding with the righteous and gracious designs of his providence,

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dence, which always intends the welfare and happiness of mankind.

¶ 108. If the subject may in no case resist, then there can be no law, but the will and pleasure of the prince: For whoever must be opposed in nothing, may do every thing; then all our laws signify no more than so many cyphers; and what are the law-makers, but so many fools and mad-men, who give themselves trouble to no purpose? For if the king is not obliged to govern by those laws that they make, to what purpose are the people to obey such laws?

¶ 109. If the king sue me by pretence of law, and endeavour to take away my money, my house, or my land, I may defend them by the law: But if he comes armed to take away our liberty, life or religion, which are ours by the laws of God and man, may we not secure them with a good conscience?

¶ 110. Every man has a right to preserve himself, his rights and privileges, against him who has no authority to invade them: And this was the case of *Sampson*, who made war upon the *Philistines* for burning his wife and her father; *Sampson* who was but a private person, knew he could have no other kind of justice against them, than what the law of nature gives every man.

¶ 111. The work of all magistrates is always and every where the same, even in the doing of justice, and procuring the welfare of those that create them. This we learn from common sense. *Plato*, *Aristotle*, *Cicero*, and the best human authors lay it as an unmoveable foundation, upon which they build their arguments relating to matters of that nature. And the Apostle *Paul* declares,

clares, Rom. xiii. *That rulers are not a terror to good works, but to evil. Wilt thou then not be afraid of the power? Do that which is good, and thou shalt have praise of the same; for he is the minister of God unto thee for good: But if thou do that which is evil, be afraid, for he beareth not the sword in vain; for he is the minister of God, a revenger to execute wrath upon him that doth evil. For this cause pay you tribute also,* Rom. xiii. 6. And the reason St. Paul gives for praying for kings, and all that are in authority, is, *That we may live a quiet and peaceable life in all godliness and honesty,* 1 Tim. ii. But if this be the work of the magistrate, and the glorious name of God's minister be given to him for the performance of it, we may easily see to whom that title belongs. *His children and servants ye are whose work ye do.* He therefore, and he only, is the servant of God, who does the work of God; who is a terror to those that do evil, and a praise to those that do well; who beareth the sword for the punishment of wickedness and vice; and so governs, that the people may live quietly in all godliness and honesty. The order of his institution is invested, and the institution vacated, if the power be turned to the praise of those who do evil, and becomes a terror to such as do well; and that none who live honestly and justly can be quiet under it. If God be the fountain of justice, mercy and truth, and those his servants who walk in them; no exercise of violence, fraud, cruelty, pride, or avarice, is patronized by him: And they who are the authors of those villanies, cannot but be the ministers of him, who sets himself up against God; because it is impossible that truth and falsehood, mercy and cruelty, justice and the most

most violent oppression can proceed from the same root. It was a folly and a lie in those *Jews*, to call themselves the children of *Abraham*, who did not the works of *Abraham*; and Christ declared them to be the children of the devil, whose works they did, *John* viii. 39, 44. which words proceeding from the eternal truth, do as well shew to us, whose child and servant every man is to be accounted, as to those who first heard them. All princes therefore, that have power, are not to be esteemed equally the ministers of God. They that are so, must receive their dignity from a title that is not common to all, even from a just employment of their power to the encouragement of virtue, and to the discouragement of vice. He that pretends to the veneration and obedience due to the ministers of God, must by his actions manifest that he is so. And, though I am unwilling to advance a proposition that may sound harshly to tender years, I am inclined to believe, that the same rule which obliges us to yield obedience to the good magistrate, who is the minister of God, and assures us, that in obeying him, we obey God; does equally oblige us not to obey those who make themselves the ministers of the devil, lest in obeying them, we obey the devil, whose works they do. And the Apostle, commanding our obedience to the ministers of God for our good, commands us not to be obedient to the minister of the devil to our hurt; *for we cannot serve two masters*. By this it appears, that kings, and the lowest officer of justice in the world, is the minister of God for good, as well as a king, or any other magistrate, they are to be feared by those that do ill, and not by such as do well; for having no more power

power than what the law directs, they cannot depart from the precepts of the Apostle: My own actions therefore, or the sense of my own guilt arising from them, is to be the measure of my fear of that magistrate, who is the minister of God, and not his power.

¶ 112. St. Chrysostom, in his Exposition on St. Paul's words, *Let every soul be subject to the higher powers*, saith, *He tells us not what those higher powers are, nor who they are, for he never intended to overthrow all governments and the several constitutions of nations, and subject all to one man's will.* Every good emperor acknowledged, that the laws of the empire were above himself: And the same principle and notion of government has obtained all along in civilized nations. *Herodotus*, says *Pindar*, calls the law, *King over all.* *Orpheus*, in his Hymns, calls it, *the King of Gods and men*: *Because*, says he, *it is that that sits at the helm of all humane affairs.* *Plato*, in his book *De Legibus*, saith, *That that ought to have the greatest sway in the common-wealth.* In his epistles he commends that form of government, in which the law is made Lord and master, and no scope given to any man to tyrannize over the laws. *Aristotle* is of the same opinion in his politics; and so is *Cicero* in his book *De Legibus*, *That the laws ought to govern the magistrate, as they do the people.* The law therefore having always been accounted the highest power on earth, by the judgment of the most learned and wise men that ever were, and by the constitution of the best ordered states; and it being very certain that the doctrine of the gospel is neither contrary to reason, nor the laws of nations, that Man is truly and properly subject to the highest powers, who

who obeys the law and the magistrates, so far as they govern according to law. So that St. *Paul* does not only command the people, but Princes themselves, to be in subjection, who are not above the laws, but bound by them; *for there is no power but of God*: That is no form, no lawful constitution of any government, but is by his providence or permission. The most ancient laws that are known to us, were formerly ascribed to God, as their author. *For the law, says Cicero in his politicks, is no other than a rule of well-grounded reason, derived from God himself, enjoining whatever is just and right, and forbidding the contrary.*

¶ 113. *Ezekiel xiv. 9. Thus saith the Lord, let it suffice you, O Princes of Israel; remove violence and spoil, and execute judgment and justice; take away your exactions from my people, saith the Lord God.* I challenge any man to produce any scripture, that allows governors, magistrates, Kings or Princes, any absolute authority: And where there is no absolute authority, there can be no absolute subjection due.

¶ 114. We find in the reign of *Darius*, the laws were made by the people, by all the presidents of the kingdoms, governors, princes, counsellors and captains, which, when the King had signed, was irrevocable and unalterable, and not in the power of their kings to alter or dispense with; so that their laws were superior to the King himself, and after the law was made, the King had no power to suspend the execution on his great favourite, his beloved *Daniel*, who was the greatest man in the kingdom, next the King; and though he set his heart to deliver him, and laboured to the going down of the sun, between the
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affection he had for the prophet, and his respect to the law, yet he could not save him: So *Daniel* was delivered up to the lions, so that the superiority of the law to kingly power, was acknowledged in the *Median* and *Persian* monarchy; and King *Darius*, though as potent a prince as most that ever reigned, vailed his crown to the regency of the law, and acknowledged himself unable to alter it, or to suspend the execution thereof, *Dan. vi.* And thus the limitation of power, and the superiority of laws in matters of government, have an original in the early ages of the world.

¶ 115. The doctrine of absolute passive obedience is inconsistent with the goodness of God, and the love he hath for man; and is destructive of the end, intent and design of God's laws, which is man's happiness. For God, who is infinitely happy in himself, had no other motive than the happiness of man in those rules he has given him to walk by; and for that reason has made it a duty in him to help the poor and miserable, relieve the oppressed and distressed, and do all manner of kindness and good offices to one another. Can it then be presumed that he requires obedience to tyrannical power, which brings poverty, misery, and desolation on a nation? If it be a duty to relieve the poor, it must be a duty to hinder people from falling into that miserable condition, which they cannot prevent, except they have a right to oppose arbitrary power. And if it be a duty to promote the public good; which they cannot do if they are obliged to submit to tyrannical government, it must be their duty to oppose it. There is no duty that a man owes to his neighbour, or himself, but does oblige him to oppose tyrannical government, in doing thereof he gives that

that honour, and performs the duty which he owes to his maker, which cannot more be shewn than in imitating him, by promoting the good and happiness of his fellow creatures.

¶ 116. The preaching or promoting of passive obedience without reserve, is a much greater crime than the encouraging of rebellion ; because a civil war, though very sharp, cannot continue long, and a nation may flourish and be happy again. But if once arbitrary government be introduced upon the principles of passive obedience, people's miseries are endless ; there is no prospect or hopes of redress : Every age will add new oppressions, and new burdens to a people already exhausted. If he by God's command was to be cursed that removed his neighbour's land-mark, what curses may they deserve that make it their business to preach or promote absolute passive obedience, which removes all the bounds, fences, and securities that whole nations have, not only for their lands, but their liberties and lives, and prostrates them at the feet of a single person. Our first reformers, and the generality of protestant and popish writers, were utterly unacquainted with this doctrine, which can never relish well with free born subjects ; nor has it any other use than to encourage Kings to be tyrants, and to render them odious, and their people miserable. And what sad and fatal consequences always attend tyranny, and the dreadful effects of arbitrary power, all ages can attest.

¶ 117. Is it possible for any one to imagine, that if this doctrine were true, none but some few divines of the church of *England*, should in all the world, never find in the scriptures, in the fathers, in reason, in the laws, those notions of absolute

absolute power, and absolute obedience, or non-resistance, which those divines taught as doctrines necessary to salvation? Is it possible it should never come into their minds, to compare their opinions with the opinions of the doctors of the foregoing age, whose *Hypothesis* is so contrary to those they have endeavoured to obtrude these sixty years last past, upon us? Is it possible they should not blush at the terrible consequences of this doctrine, both to our kings and the whole kingdom, which it hath brought upon us for many years past, which we feel to this day.

¶ 118. It is a wonder how men, not fond of slavery, should maintain maxims so pernicious to human society; for if this doctrine had always obtained and proselited all men to its belief, we, and all *Europe*, should have been miserable under tyranny and oppression to this day. At this rate a king needs no army to ruin and enslave his people; he alone, with a few rascally slaves might rob them of their lives and fortunes.

¶ 119. The greatest and wisest nations, and the best of men in all ages, have reckoned it not only lawful for the people, under the most absolute governments, to do themselves justice, in case of oppression, but have thought the doing of it a duty incumbent on them, and which they owed to themselves and their posterity: And the chief instruments of the great revolutions or changes that have happened in the world, from slavery to liberty, have always been accounted as heroes, sent by God Almighty, from time to time, for the redemption of man from misery in this world; they were accordingly honoured and respected whilst they lived, and their memo-

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ries have been, and will be held in veneration by all posterity.

¶ 120. The doctrine of absolute *passive-obedience* is a treasonable, slavish and pernicious doctrine, by disarming the people of all their civil rights, and taking away self-defence, which is the law of God and nature, and investing the king with absolute authority, by making all the revolutions and changes of kings, that have been in *England*, damnable rebellions and usurpations, and all our kings and queens usurpers, that have proceeded from the loins of those kings; it makes all the family of the *Stuarts* usurpers, as proceeding from the loins of *Hen. 7.* who was made king by virtue of an act of parliament, (whilst the next heir was living) so that her most excellent Majesty is an usurper, according to this doctrine, as being a *Stuart*; and all that pretend to the crown of *England*, have no right according to this doctrine; it makes the late revolution a damnable rebellion and usurpation, and the queen herself a rebel and usurper: Without that revolution her majesty had never been queen: Is not this a doctrine to be abhorred?

¶ 121. Now, what say ye for yourselves, all ye patrons, preachers, and furious maintainers of the slavish doctrine of absolute passive-obedience to the will and pleasure of the prince, that a bill of indictment for *high-treason* should not be preferred against you, for making all our revolution kings usurpers and rebels; and all that have proceeded from them usurpers, (which yet never failed of a constant succession) by denying the power of the people, who made those revolutions and changes of government, and who have made and confirmed the late revolution in
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all the succeeding parliaments? This revolution king, with the lords and commons in parliament assembled, who did alter the succession from the *House of Savoy*, to the *House of Hanover*, were the whole legislative authority of the nation: Deny this if you dare: Or, that the queen, with the lords and commons in parliament assembled, cannot alter the succession and course of descent thereof? There is *Vox Populi* again; the whole people of *England* in epitome.

¶ 122. The doctrine of absolute *passive-obedience* is a treasonable doctrine against civil society by encouraging rebellion, usurpation and tyranny. For suppose that any one of our generals, &c. should insinuate to the soldiers that the government was not rightly managed, nor justice and equity truly performed; and by great promises of money and preferment, to the officers and soldiers, should get into the throne by their assistance, (which God forbid;) such resistance would (I verily believe) be a damnable rebellion. But when in the throne, he would be God's vicegerent, ordained of God, and not to be resisted upon pain of damnation, according to the doctrine of absolute *passive-obedience*; so that if any tyrant or usurper should get into the throne, St. *Paul*, as they scandalously expound him, hath tied up your hands, you must be *passive*; the people have no power, it is all in the magistrate, though they have power and authority to chuse this magistrate, yet that very minute he is chosen, their power and authority vanisheth; and if he turn never so great a tyrant, they have nothing but prayers and tears to help them; for now he hath God's authority and power (though he has neither his patent or warrant to shew for it) either to ruin, or make
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you happy ; it is no matter for your laws, they are but dead letters ; his will and pleasure is above that, and if he be a terror to good works, and a rewarder of evil, and acts diametrically contrary to the nature and design of his office, both from God and man, and should ravish, and cause to be ravished, your wives and daughters before your face, and rob, burn and destroy all before him ; notwithstanding all this, he is still God's vicegerent, God's magistrate, and not to be resisted, &c. And who dare say unto him, What dost thou ? Now, ye sworn enemies to church and state, what say you for yourselves, that a second bill of indictment of *high treason* should not be preferred against you, for encouraging of rebellion, usurpation and tyranny, by teaching the doctrine of absolute *passive-obedience* ; what say you for yourselves ? Are you guilty or not guilty ? Hold up your hands. If thou wilt be tried by the whole legislative authority of the nation, they must condemn you or themselves.

¶ 123. Where was the doctrine of absolute *passive-obedience* and *loyalty*, when the lords spiritual and temporal, gentlemen and commonalty invited the prince of *Orange* to come with armed forces to oblige the Lord's anointed, God's vicegerent, once their lawful sovereign, (to whom they had sworn allegiance, and had before promised to stand by him with their lives and fortunes, in all their addresses to him, after his coming to the throne) to oblige him (I say) to revoke what he had done amiss, and to bind him in chains, and his nobles in fetters of iron, that he should not govern according to his will and pleasure, but according to law, their will and pleasure,

pleasure ; and when the Bishops refused to dis-own (to king *James*) their inviting over the prince, or to subscribe an abhorrence of the invitation, by which it appears that they did invite him over, or allowed of *resistance*, when their church was in danger : And where was that doctrine, when the nobility, gentry, and commonalty rose to join the prince of *Orange*, after he was landed ? And when the bishops and noblemen met at *Guild-Hall*, and desired the prince to take upon him the administration of the government, and when the convention, with the lords spiritual and temporal gave the crown and dignity to the prince and princess of *Orange*, and when the parliament made war against the late king *James* in *Ireland*, did they not kill him and his adherents as much as in them lay, at the battle of the *Boyne*, &c. was that according to the doctrine of unconditionate passive-obedience ?

¶ 124. Where was *passive-obedience* on the third of *October*, 1688, when the Archbishop of *Canterbury*, Bishops of *London*, *Winchester*, *Asaph*, *Ely*, *Chichester*, *Rochester*, *Bath* and *Wells*, and *Peterborough*, all in a body, waited upon the king, and the archbishop made a speech to him, and afterwards read and delivered to him ten articles, or proposals of their advice for the better redressing of the abuses in his government, the substance of which was very near the same with that of the prince of *Orange's* declaration, except in one or two particulars. The bishop of *Rochester* observes, that they were drawn at *Lambeth*, on the first of *October*, the very same day that the prince's declaration was signed in *Holland*, being the tenth *N. S.* which was our first *O. S.*

¶ 125. Where was your *passive-obedience*, November the first, 1688, when a parcel of the prince of Orange's declarations being intercepted in London, and upon reading that expression in it, That the prince was most earnestly invited hither by divers of the lords both spiritual and temporal, and others, the king sent for some of the bishops again, and required of them a paper under their hands in abhorrence of the prince of Orange's intended invasion by such a day, which abhorrence was designed to have been tacked to a proclamation then in the press, for suppressing the prince's declaration. The bishops of Canterbury, London, Peterborough, and Rochester (on whom this storm only fell) refused to do it, upon which his Majesty was very much incensed against them, and parted from them with indignation. And thereupon the jesuited party at court were so violently enraged, that as we are credibly informed (saith the bishop of Rochester) one of the chief advised in a heat, they should all be imprisoned, and the truth extorted from them by violence.

¶ 126. Where was the doctrine of absolute *passive-obedience* and *loyalty*, when on the fifth of November, 1688, the prince landed; and on the twelfth, when the lord Cornbury, with his royal regiment of dragoons, and the duke of St. Alban's regiment of horse, commanded by colonel Langston, went over to the prince? On the fifteenth of November, the gentry of Somersetshire and Dorsetshire waited on the prince at Exeter, who spoke to them as follows: Though we know not all your persons, yet we have a catalogue of your names, and remember the character of your worth and interest in your country. You see we are come according to your invitation, and our promise.

mise. Our duty to God obliges us to protect the protestant religion; and our love to mankind, your liberties and properties: concluding, Let the world now judge, if our pretensions are not just, generous, sincere, and above price, since we might have had even a bridge of gold to return back; but it is our principle and resolution, rather to die in a good cause, than live in a bad one; well knowing that virtue and true honour is its own reward, and the happiness of mankind our great and only design. On the sixteenth the lord Delamere assembled fifty horsemen, and marched to Manchester, and the next day to Boden-Downs; his forces being increased to one hundred and fifty, he declared his design was to join the prince of Orange; and this small party of men, by degrees, drew in the earl of Danby, Sir Scroop How, Sir W. Russel, &c. and all the North.

¶ 127. Where was the doctrine of absolute unconditionate *passive-obedience* and loyalty, when Sancroft, archbishop of Canterbury, (who was the first who signed the prince of Orange's invitation to the city) went from Guild-Hall, and demanded the keys of the tower of sir Bevel Skelton, king James's lieutenant, in the name of the lord-mayor, and the lords spiritual and temporal then assembled at Guild-Hall, which the lieutenant delivered to him, and he delivered the same (as by order from the lords, &c.) to the lord Lucas, who took immediate possession thereof, which would have been as real acts of *Læsa Majestatis*, if king James had not forfeited the duty and obedience of his subjects, as if he had stabbed him to the heart?

¶ 128. And where was that doctrine, when prince George of Denmark, the duke of Grafton,
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duke of Ormond, lord Churchill, now duke of Marlborough, and many others of the protestant nobility, went over to the prince of Orange, at Sherbone castle ? November the twenty-ninth, Bristol was seized by the earl of Shrewsbury, and sir John Guise ; the lord Lovelace was delivered by the gentry of Gloucestershire, out of the castle of Gloucester, where he was a prisoner ; Newcastle received the lord Lomly ; York was in the hands of the associated lords ; and the garrison of Hull seized the lord Langdale their governor, a papist, and the lord Montgomery, and disarmed some popish forces newly sent thither ?

¶ 129. Where was the doctrine of absolute passive-obedience and loyalty, when prince George of Denmark, the duke of Ormond, lord Mordant earl of Macclesfield, lord Wiltshire, lord Cornbury, lord Colchester, and several other lords ; sir William Portman, sir Rowland Gwyn, Col. Sidney, and many other knights and gentlemen rode into the city of Salisbury with the prince of Orange and his army, on the fourth of December ? And where was that doctrine, when the princess Anne (our most gracious and good queen) with the lady Churchill, (now dutchess of Marlborough) lady Berkley, and the bishop of London, went to the North, to those forces then in arms for the prince of Orange ? And on December the fifth, when the earl of Oxford came to the prince of Orange at Salisbury ? And the same day the lord Herbert of Chisbury, sir Edward Hurley, and most of the gentry of Worcestershire and Herefordshire met at Worcester, and declared for the prince of Orange ; Ludlow castle was taken for the prince by the lord Herbert and sir Walter Blount, and the popish sheriff of Worcester secured in it by that peer.

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The pretended prince of *Wales* was sent to *Portsmouth*, with orders to the lord *Dartmouth*, to send him under a convoy, with his nurse, into *France*, which he refusing, he was brought back to *London* on the 8th of *December*. *December* the 11th, king *James* withdrew himself from *London*; was taken at *Feversham* the 12th; the 16th he returned to *Whitehall*, and put out an order of council against all riotous and tumultuous meetings and disorders, &c. *December* the 11th, about three in the morning, the king went to *Gravesend* in a small boat. About ten o'clock, the lords spiritual and temporal, about town, came to *Guild-Hall*, in *London*, and sending for the lord-mayor and aldermen, made the following declaration, viz.

WE doubt not but the world believes, that in this great and dangerous conjuncture, we are heartily and zealously concerned for the protestant religion, the laws of the land, and the liberties and properties of the subject. And his majesty having withdrawn himself: We do therefore unanimously resolve to apply ourselves to his highness the prince of Orange, &c.

And we do hereby declare, that we will, with our utmost endeavours, assist his highness in the obtaining such a parliament with all speed, wherein our laws, our liberties and properties may be secured, the church of England in particular, with a due liberty to protestant dissenters; and in general, the protestant religion and interest over the whole world, may be supported and encouraged, to the glory of God, the happiness of the established government in these kingdoms, and the advantage of all princes and states in Christendom, that may be herein concerned. In the mean time we will endeavour

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deavour to preserve, as much as in us lies, the peace and security of these great and populous cities of London and Westminster, and the parts adjacent, by taking care to disarm all papists, and secure all Jesuits and Roman priests, who are in and about the same. And if there be any thing more to be performed by us, for promoting his highness's generous intentions for the public good, we shall be ready to do it as occasion requires.

Signed by W. Cant, T. Ebor, Pembroke, Dorset, Mulgrave, Thanet, Carlisle, Craven, Ailisbury, Burlington, Sussex, Berkley, Rochester, Newport, Weymouth, P. Winchester, W. Asaph, F. Ely, Tho. Roffen, Tho. Petriburg, P. Wharton, North and Gray, Chandris, Montague, T. Jermyn, Vaughan, Carbery, Culpepper, Crew, Osulston. And they ordered the earl of Pembroke, the lord viscount Weymouth, the bishop of Ely, and the lord Culpepper, forthwith to attend his highness, the prince of Orange, with the said declaration; and at the same time to acquaint his highness with what we have further done at this meeting. Dated at Guild-Hall, the 11th of December, 1688, but not according to the doctrine of absolute passive-obedience to tyranny.

¶ 130. The same day the lieutenancy of London signed the following address to the prince of Orange, at Guild-Hall, and sent it by sir Robert Clayton, sir William Russell, sir Basil Firebrace, and Charles Duncomb, Esquire, viz.

" May it please your Highness,

*" WE can never sufficiently express the deep sense we have conceived, and shall ever retain in our hearts, that your highness has exposed your person to so many dangers, by sea and land, for
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the preservation of the *protestant religion*, and the laws and liberties of this kingdom, without which unparalleled undertaking, we must probably have suffered all the miseries that *popery* and *slavery*, could have brought upon us. We have been greatly concerned, that before this time we had not any seasonable opportunity to give your highness and the world, a real testimony, that it has been our firm resolution to venture all that is dear to us, to attain those glorious ends which your highness has proposed, for restoring and settling these distracted nations. We therefore, now unanimously present to your highness, our just and due acknowledgments for that happy relief you have brought to us: And that we may not be wanting at this present conjuncture, we have put ourselves into such a posture, that (by the blessing of God) we may be capable to prevent all ill designs, and to preserve this city in peace and safety, until your highness will please to repair to this city, with what convenient speed you can, for the perfecting the great work, which your highness has so happily begun, to the general joy and satisfaction of us all."

¶ 131. The same day, *December* the 11th, the lord-mayor, aldermen, and commons of the city of *London*, in common-council assembled, agreed on, and signed an address to the prince of *Orange*; imploring his protection, and humbly beseeching him to repair to the city, where his highness should be received with universal joy and satisfaction. All which addressees were presented to his highness, the prince of *Orange*, by the persons appointed, the 14th of *December*, at *Henly upon Thames*; but not according to Dr. Hicks,

Hicks, Dr. Whelton, Dr. Atterbury, Dr. Sacheverell's, &c. unconditionate obedience.

¶ 132. On the 14th of *December*, the privy council and peers met again, at the council-chamber at *White-hall*, and made an order, *That all Irish officers and soldiers should deliver up their arms to some of the officers of the ordinance to be deposited in the tower of London.* Signed by *Thomas Ebor, Halifax, Dorset, Carlisle, Craven, Nottingham, Rochester, N. Duresme, P. Winchester, North and Gray, J. Trevor, J. Titus.*

¶ 133. At that time all the forts in *England*, except *Portsmouth* and *Tilbury*, were in the prince's hand. The same day the duke of *Grafton*, by an order from the lords of the council, marched through the *Strand*, &c. at the head of a foot regiment of guards, to take the fort of *Tilbury* out of the hands of king *James's Irish* soldiers. The 17th, king *James* discharged *Leybourn*, a *popish* bishop, out of *Newgate*. The 18th, the king went to *Rochester*, and the same day, the prince of *Orange* came to *St. James's*, attended by a great number of nobility and gentry. And on the same day, the common-council of the city passed an order, *That all the aldermen, and their common-council-men of each ward should wait upon his highness, and congratulate him upon his arrival to the city;* and on the 20th, they went to *St. James's*, where sir *George Treby*, their recorder, made the following speech in their names, *viz.*

“ *May it please your Highness,*

¶ 134. “ *THE lord-mayor being disabled by sickness, your highness is attended by the aldermen and commons of the capital city of this kingdom*

kingdom, deputed to congratulate your highness upon this great and glorious occasion.

“ In which labouring for words, we cannot but come short in expression : Reviewing our late danger, we remember our church and state overrun by popery and arbitrary power, and brought to the point of destruction, by the conduct of men (that were our true invaders) that broke the sacred fences of our laws (which was worst) the very constitution of our legislature.

“ So that there were no remedy but the last.

“ The only person under heaven, that could apply this remedy, was your highness.

“ You are of a nation, whose alliance, in all times, has been agreeable and prosperous to us.

“ You are of a family most illustrious benefactors to mankind ; to have a title of a sovereign prince, Stadtholder, and to have worn an imperial crown are amongst their lesser dignities.

“ They have long enjoyed a dignity singular and transcendent, *viz.* To be the champions of Almighty God, sent forth in several ages to vindicate his cause against the greatest oppressions.

“ To this divine commission, our nobles, our gentry, and among them our brave *English* soldiers, render themselves and their arms upon your appearing, great Sir.

“ When we look back to the last month, and contemplate the swiftness and fullness of our present deliverance ; astonished we think it miraculous.

“ Your highness, led by the hand of heaven, and called by the voice of the people, has preserved our dearest interests.

“ The protestant religion, which is primitive christianity ; restored our laws, which are our
ancient

ancient title to our lives, liberties and estates, and without which this world were a wilderness.

“ But what retribution can we make to your highness? Our thoughts are full charged with gratitude.

“ Your highness has a lasting monument in the hearts, in the prayers, in the praises of all good men amongst us. And late posterity will celebrate your ever glorious name until time shall be no more.”

¶ 135. On the 21st of *December*, about sixty of the peers met at *St. James's*, who all (except two) subscribed a paper in the nature of an association: After which his highness made a short speech to them.

¶ 136. On the 22d, the lords spiritual and temporal assembled at *Westminster*, in the house of lords, and appointed *Francis Gwyn, Esq;* to sign such orders, as should be from time to time by them made, which was thus signed by *Thomas Ebor, Norfolk, Somerset, Grafton, Ormond, Beaufort, Northumberland, Hallifax, Oxford, Kent, Bedford, Pembroke, Dorset, Devonshire, Bullingbrook, Manchester, Rivers, Stamford, Thanet, Scarsdale, Clarendon, Burlington, Sussex, Macclesfield, Radnor, Berkley, Nottingham Rochester, Fauconberg, Mordant, Newport, Weymouth, Hatton, W. Asaph, F. Ely, La. Ware, R. Eure, P. Wharton, Paget, North and Grey, Chandois, Montague, Grey, Maynard, T. Jermyn, Vaughan, Carbery, I. Culpepper, Lucas, Delamere, Crew, Lumley, Cartaret, Osulston.*

¶ 137. The 23d, king *James* withdrew himself from *Rochester*, and went to *Dover*, and embarked in a vessel there for *France*.

¶ 138.

¶ 138. The foregoing peers being assembled the 25th of *December*, in the house of lords, signed and presented to his highness this address.

“ WE the lords spiritual and temporal assembled in this conjuncture, do desire your highness to take upon you the administration of the public affairs, both civil and military ; and the disposal of the public revenue, for the preservation of our religion, rights, laws, liberties and properties, and of the peace of the nation until the meeting of the convention, *January 22*”. And the lords, &c. did humbly desire his highness to cause letters to be written, subscribed by himself, to all the lords, being protestants, and all the counties, &c. to send members to the convention, on *January 22d*.

¶ 139. On the 9th of *January* following, about thirty lords, and eighty gentlemen of *Scotland*, signed a paper to the same purpose, which was delivered to his highness, in their presence, by the duke of *Hamilton* their president.

¶ 140. On *January 22, 1689*. The convention being met according to his highness's order, they ordered, “ That the thanks of both houses should be returned to his highness, in the behalf of the whole nation, for his highness's happy deliverance of this kingdom from popery, slavery and despotic power, and for the preservation of the protestant religion, and the laws, rights, privileges, and customs of our land, &c.” And both houses ordered the 31st of *January* for a day of public thanksgiving in *London* and *Westminster*, and within ten miles distance, for that great deliverance : And on the 14th of *February* following, throughout the whole kingdom. But

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not according to the doctrine of absolute *passive-obedience*.

¶ 141. On the 28th of *January* the convention passed this vote. “ *Resolved*, That king *James* the Second having endeavoured to subvert the constitution of this kingdom, by breaking the original contract between king and people, and by the advice of jesuits, and other wicked persons, having violated the fundamental laws, and having withdrawn himself out of this kingdom, hath abdicated the government, and that the throne is thereby become vacant.” Was this according to the doctrine of non-resistance ?

¶ 142. On the 6th of *February* the lords assented to the said vote.

¶ 143. The word *abdicated* relates to all the clauses aforegoing, as well as to his deserting the kingdom, or else they would have been wholly in vain ; the meaning of that word is, that king *James*, by violating the original contract, and by endeavouring to subvert the fundamental constitution, and by refusing to restore it to its former condition (all which was expressed by his withdrawing himself out of the kingdom) did *abdicate* the government, that is, by refusing to govern us according to that law by which he held the crown, he did implicitly renounce his title to it ; for it is a right inherent and inseparable from all nations, to have the same power of making laws for their own preservation and better governments that their ancestors had.

¶ 144. And on the 12th, the lords spiritual and temporal, and commons, did resolve, *That William and Mary, prince and princess of Orange, be declared king and queen of England, &c.*

¶ 145.

¶ 145. On the 13th, the lords and commons ordered a proclamation to be published, wherein they say, *That the prince and princess of Orange having accepted the crown according to their desire: We, therefore, the lords spiritual and temporal, and commons, together with the lord-mayor and citizens of London, and others of the commons of this realm, do with full consent, publish and proclaim William and Mary, prince and princess of Orange to be king and queen of England, &c.* But not according to the doctrine of absolute *passive-obedience*. By this revolution the body of the people of *England*, are restored to their ancient rights, and the government re-established upon its primitive and original foundation, and the pretended divine right of succession is now vanished.

¶ 146. In the declaration of the nobility and gentry, and commonalty, assembled at *Nottingham*, to assist the prince of Orange: *We hope* (say they) *all good protestant subjects will, with their lives and fortunes, be assistant to us, and not to be bug-beared with the opprobrious terms of rebels, by which they would fright us, to become perfect slaves to their tyrannical insolences and usurpations.* For we assure ourselves, that no rational and unbiassed person will judge it rebellion, to defend our laws and religion, which all our princes have sworn to at their coronation. *We own it rebellion to resist a king that governs by law; but he was always accounted a tyrant that made his will the law; and to resist such a one, we justly esteem no rebellion, but a necessary defence: And in this consideration we doubt not of all honest men's assistance, and humbly hope for, and implore the great God's protection, that turneth the hearts of*
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his people, as pleaseth him best, it having been observed, that people can never be of one mind, without his inspiration, which hath in all ages confirmed that observation, *Vox Populi est Vox Dei.*

¶ 147. Now according to the doctrine of *passive-obedience*, without reserve, as has been preached up, (and is now began to be revived again) all those bishops, clergy, nobility, gentlemen and commonalty, who had a hand in the late revolution, and held that doctrine, and now hold the same doctrine, may expect a double portion of *St. Paul's* damnation, for rebelling against their own doctrine.

¶ 148. In king *James* the first's reign, that ridiculous doctrine of kings being *Jure Divino* was first preached, which was never before heard of in all the eastern tyrannies; and in king *Charles* the first's time, when *Popish* and *French* councils found admission at court, then arose the doctrine of *passive-obedience* without reserve. There can be no proofs made of a divine appointment of kings, or of any other governors, or forms of government, (so as to be a rule for any people or nation to go by) or that all the revolutions and accidents that have happened in the world were by divine appointment; which to assert, is to make God the author, or approver of all the tyranny, rapine, murder, and desolation which have happened in the world, which is a damnable sin to assert.

¶ 149. Where was the nonsensical slavish doctrine of *passive-obedience* to tyranny, when *Elisha* prayed for blindness to come upon those who were sent by the king of *Syria* to fetch him? And when he commanded the door to be shut, and the messenger to be held fast, who was sent for his head

head by the king of *Israel*? And when *Azariah*, with fourscore valiant priests, thrust out *Uzziah* their lawful king, out of the temple for his idolatry? And when *Elijah* destroyed the two captains with fire from heaven, with the hundred men under their command, who were sent at twice, by king *Abaziah*, to fetch him? And when the children of *Israel* slew *Amaziah*, their lawful king for his idolatry, without any appointment in scripture, or prophecy of his downfall? And yet that is no where called *rebellion*, neither were they punished by his son, who was made king in his father's stead. And when *Matthias*, and his friends pulled down the altars which were adapted to idols, 1 *Maccab.* ii. 25, 45. And when the *Edomites* revolted from *Jehoram*, and made themselves a king? And *Libnah* did also revolt because of his evil government, 2 *Chron.* xxi. without any appointment or foretelling of their revolt by God in scripture, or being called rebels. And when *Saul's* subjects swore that *Saul* should not kill *Jonathan*, and they rescued him: that he died not, 1 *Sam.* xiv. 45. And though the people sinned grievously in asking a king, yet God assented to their demand, and no prince was ever more solemnly instituted than *Saul*. The people chose him by lot from amongst all the tribes, and he was placed in the throne by the general consent of the whole nation: But he turning his lawful power into tyranny, disobeying the word of the prophet, slaying the priests, sparing the *Amalekites*, and oppressing the innocent, overthrew his own right, and God declared the kingdom, which had been given him under a conditional promise of perpetuity, to be intirely abrogated. This did

did not only give a right to the whole people of opposing him, but to every particular man, and upon this account *David* did not only fly from his fury, but resisted it, by making himself head of all the discontented persons that would follow him : He had at first four, and afterwards six hundred men ; he kept these in arms against *Saul*, and lived upon the country, and resolved to destroy *Nabash* with all his house, only for refusing to send provisions for his men ; and finding himself weak and unsafe, he went to *Achish* the *Philistine*, and offered his service against *Israel*. This was never reputed a sin in *David*, or in those that followed him, except by the wicked court flatterer, *Doeg* the *Edomite*, and the drunken fool *Nabal*, who is said to be a man of *Be-lial*. *David* by entertaining and arming as many as came to him, even to six hundred men, sufficiently shewed his intention rather to resist than to fly : And no other reason can be given why he did not further pursue that intention, than that he had not power enough, is plain, by his going to *Keilah* and desiring their assistance ; and if the men of *Keilah* would have assisted him, and been true to him, he would have fought *Saul* and his army, else why did he enquire of the Lord, whether the men of *Keilah* would deliver him up in the hands of *Saul*, and upon the Lord's answering, they would deliver him up, he and his men departed the city, 1 *Sam.* xxiii. *David* had no other right of making war against *Ishbosheth*, *Saul's* son, than against *Saul*, unless the tribe of *Judah* had made him king. But as *David* did resist the authority of *Ishbosheth*, without assuming the power of a king, though designed by God, and anointed by the prophet, until he
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was made king of *Judah* by that tribe ; or arrogating to himself a power over the other tribes, until he was made king by them, and had entered into a covenant with them ; it is much more certain that the persons and the pretended authority of tyrannical kings, who can have no title to the privileges which were due to *Saul* by virtue of his institution, may be justly resisted. But if *Saul*, who was made king by the whole people, and anointed by the command of God, might be resisted when he departed from the law of his institution ; it cannot be doubted that any other for the like reason may not be resisted. If resistance was unlawful, and a sin, surely *David*, a man after God's own heart, would have known it ; and he would not have involved the six hundred men that came to his assistance, in the sin of rebellion, but would have told them the prince was not to be resisted, though never so great a tyrant. According to the pretended doctrine of *Jure Divino*, the vilest slave in *Israel* had become the Lord's anointed, if he could have killed *David*, *Solomon*, &c. and found villains to place him in the throne.

¶ 150. Where was the bow-string doctrine of *absolute passive-obedience*, when the primitive christians called in *Constantine the Great*, to aid and assist them against the tyranny and persecution of *Mexentius* and *Maximinus*, with force of arms, with which they conquered those persecutors in several battles fought against them ? And when the primitive christians resisted *Lucinius* their emperor, for persecuting them contrary to law ; and *Constantine the Great* joined with them ; who held it his duty, saith *Eusebius*, to deliver an infinite number of people, by cutting off a few wicked

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ed ones, as the pests and plagues of the times? And when the primitive christians under the king of *Persia*, resisted him for persecuting them, and were assisted by *Theodosius* the Roman emperor, who told the king of *Persia*, He was ready to defend them, and no ways to see them suffer for religion? And when the christians of *Armenia the Greater*, made a league with the Romans, for the securing of their persons and religion, against the *Persians*, under whom they lived? And when the *Novatians* assisted by the *Orthodox*, resisted and beat the *Macedonians*, though they were assisted by *Constantius* the emperor with four thousand men to drive them from *Paphlegonia*? And when the primitive christians destroyed *Julian's* idolatrous temple? And when the *Lutheran* churches defended themselves against the emperor *Charles* the fifth? And when the protestants of *Austria* took up arms, Anno 1608, against *Matthias* king of *Hungary*, for denying them the free exercise of their religion.

¶ 151. Where was the cruel and barbarous doctrine of *absolute passive-obedience*, when the whole church of *England*, in several convocations justified the protestants in the resisting of their tyrannical princes, and not only maintained in words, the justice of their resistance, but which is more, they laid down their purses to help them; and charged themselves deeply with taxes, in consideration of queen *Elizabeth's* great charges and expences in assisting them: As you may see in the clergy's subsidy acts in that reign.

¶ 152. *Quinto Elizabethæ*, Cap. 22. Among other considerations, for which the clergy give their subsidy of six shillings in the pound, they have these words; And finally, pondering the in-
estimable

estimable charges sustained by your highness, as well of late days in reducing the realm of Scotland to unity and concord, as also in procuring as much as in your highness lieth, by all kind of godly and prudent means, the abating of all hostility and persecution within the realm of France, practised and used against the professors of God's holy gospel, and true religion. The first thing in this passage is the queen's assistance of the *Scotch* in their reformation, wherein they were opposed by the queen of *Scots*, which is set down at large in our *Chronicles*, Stow, p. 640. The temporality, in their subsidy act, at the same time, *Cap.* 27. call this assistance, "The princely and upright preservation of the liberty of the next realm and nation of *Scotland* from eminent captivity and desolation." The other they called, "The godly and prudent means for abating hostility and persecution within the realms of *France*." Stow, p. 650. informs us that those means were the forces sent under *Dudley*, earl of *Warwick*, to *New-Haven*, to assist the *French* protestants who were then in arms. This assistance of the queen, parliament and clergy, was a damnable sin according to the doctrine of absolute passive and unconditionated obedience, which some of our clergy do now hold; for they that are aiding and assisting to rebels, are as bad as rebels themselves: But all the bishops and clergy in convocation, held no such doctrine in those days; for they call that assistance, the use of godly and prudent means to abate hostility and persecution, practised and used against the professors of God's holy gospel and true religion.

¶ 153. 35 *Eliz.* *Cap.* 12. The clergy grant another subsidy in consideration of her Majesty's charges,

charges, “ in the provident and needful prevention of such intended attempts, as intend to the extirpation of the sincere profession of the gospel, both here and elsewhere.” The temporalties subsidy act at the same time declares these reasons for their tax. Cap. 13. *Besides the great and perpetual honour which it hath pleased God to give your Majesty abroad, in making you the principal support of just and religious causes against usurpers---Besides the great succours in France and Flanders, which we do conceive to be most honourable in regard of the ancient leagues, the justice and equity of their causes. And in the 39 Eliz. Cap. 27, they say, This land is become, since your Majesty's happy days, both a port and haven of refuge, for distressed states and kingdoms, and a rock and bulwark of opposition against the tyrannies and ambitious attempts of mighty and usurping potentates.*

¶ 154. 43. Eliz. Cap. 17. The clergy in their subsidy act, say, for who hath, or should have a livelier sense, or better remembrance of your Majesty's princely courage and constancy in advancing and protecting the free profession of the gospel, within and without your Majesty's dominions than your clergy. King Charles the first, and the Bishops and clergy of England, assisted the protestants of France : So that if the Scotch, French and Dutch protestants were doomed rebels in their resistance of their lawful sovereigns, then the church and parliament of England, quite through queen Elizabeth's reign, and in king Charles the first's reign, by their assisting of them, involved themselves in the same guilt. For it is utterly unlawful, and a horrid sin to assist subjects in the violation of their duty and allegiance, and to aid them in resisting the ordinance of God.

God. But this being too absurd to be believed of confessors, and men who had hazarded their lives for the protestant religion, it is plain that they held resistance to be lawful in these cases, though it be not to be found in their catechism, nor in the book of *Homilies*: For if they had thought it utterly unlawful to assist subjects against tyrannical princes, or that St. *Paul* had threatened it with damnation, they must have been willing to purchase it at a very dear rate, since they applied a whole year's revenue of all the benefices of *England*, to resist the ordinance of God. By this it appears, that the new modish doctrine of submitting to all sorts of lawless oppression is madness and innovation, and wholly unknown to the compilers of our *Homilies*. So if they who now hold the same opinion be in an error, they err with their fathers, with the church and parliament of *England*, and with most of the protestants in *Europe*, in all ages; then they do err in good company. Now Doctor *Sacheverell*, Dr. *Hicks*, Dr. *Welton*, Dr. *Atterbury*, Mr. *Higgins*, Mr. *Whaley* of *Oxford*, Mr. *Lesly*, Mr. *Collier*, Mr. *Milbourne*, and all others who hold the doctrine of absolute passive-obedience? What say you? Are you wiser than all our forefathers? For shame recant, lest you be taken for madmen, fools or knaves.

¶ 155. And where was absolute passive-obedience, when the protestant princes of *Germany* invited *Gustavus Adolphus*, king of *Sweeden*, to come into *Germany* to assist them against their lawful prince, for persecuting of them; and when the protestants joined with him upon his arrival; and when king *Charles* the first assisted them with men from *England*?

¶ 156. Bishop Jewel, one of those that wrote the *Homilies*, saith in the defence of his apology, p. 16. *That neither Luther, Melancthon, &c. taught the people to rebel against their prince, but only to defend themselves by all lawful means against oppression, as did David against king Saul. So do the nobles in France at this day: They seek not to kill, but to save their own lives, as they have protested by public writing to the world. As for us, we are strangers unto their case; they themselves are best acquainted with the laws and constitution of their country; and therefore are best able to yield account of the grounds and reasons of their doings.*

¶ 157. Bishop Bilson, in his book of *The true difference between christian subjection and unchristian rebellion*, (dedicated to the queen Elizabeth) in defence of the protestants of France, against the unjust oppressions of their king, saith, *I will not rashly pronounce all that resist to be rebels: Cases may fall out in christian kingdoms, where people may plead their right against the prince, and not be charged with rebellion. As if a prince should go about to subject his kingdom to a foreign realm, or change the form of the commonwealth, from empire to tyranny, or neglect the laws established by common consent of the prince and people, to execute his own pleasure: In these and other cases which might be named, if the nobles and commons join together to defend their ancient and accustomed liberty, they may not be accounted rebels.*

¶ 158. In king Charles the first's reign, we have the judgment of bishop Abbot, that the case of the primitive christians and us differs in this, *That they had no legal right for their religion, but were subject to the meer pleasure of the government;*

ment; and whilst it was so, they made no resistance. But under Constantine, the emperor, they had laws on their side, then they allowed of resistance.

¶ 159. Sleyden, Com. l. 8. tells us, that Luther had always taught, *That the magistrate might not be resisted*; and there was a little book of his extant upon that subject. But when the lawyers, in a conference, proved, *That resistance was allowed by the laws in some cases*, Luther ingeniously professed, *That he did not know the lawfulness of it before*; and then said, *That being the gospel doth not bar, nor abolish the laws of the state, as he had always taught*; and because many things might so happen, that not only matter of right, but also the force and necessity of conscience might occasion us to arm, therefore an association might be entred into, to defend ourselves in case Cæsar himself should make war upon us, or any one else in Cæsar's name. In another book of his he warned all men in general, *That they should not obey the magistrate, if he raised the militia for such a war*.

¶ 160. At the same time there were seven princes, and twenty-four protestant cities, which entred into an association against the emperor, (Sleyd. Com. l. 18.) As for his charging us with rebellion (say they) there is nothing at all in it; and he knows in his conscience that we are wronged. If he had stood to his former compacts and decrees, we also should have done our duty; but because he has broken them, and besides our obedience is due to God in the first place, let him lay the blame upon himself: For being he endeavours the destruction of our religion and liberty, he gives us cause to oppose him with a good conscience: For in that case it is lawful to resist, as may be made appear, both from sacred and profane history. For unjust violence

violence is by no means the ordinance of God ; neither are we any otherways bound to him, than upon the performance of the conditions, upon which he was made emperor.

¶ 161. The citizens of *Madgeburgh*, say, " That they could not be proved guilty of rebellion, either by the law of God, or the law of man : That those who took up arms against them, made war upon Christ himself, &c. every body easily understands, how utterly unlawful it is to offer any violence to us." *Slyd. Com. l. 2.*

¶ 162. *Malancthon* was of the same opinion as *Luther*, as to the lawfulness of resistance, as in many places of his writings it doth appear ; as was *St. Chrysostom* before them both : And in his comment on *Prov. xxiv. 21, 22.* he saith, *The gospel allows us to make use of politic laws, which are reasonable :* Nay, if a lawful defence were not allowed by the gospel, the gospel itself would be transformed into a state doctrine and would establish infinite slavery which it does not. And in his common places called *vindicta*, upon these words of our Saviour, " He that takes the sword, shall perish by the sword ;" he says, " For a man to take the sword, is to draw it when it is not put into his hands by the laws ; therefore he who offers unjust violence, takes the sword : But on the other hand, he who uses a just defence does not take the sword, but he draws a sword which the laws put into his hands." And in his commentary on *Rom. xiii.* upon these words ; " Wherefore ye must needs be subject, not only for wrath, but also for conscience sake ;" he says, That these words do concern not only the subject, but also the magistrates themselves, who when they turn tyrants do overthrow the ordinance

nance of God, no less than the seditious. And therefore their consciences are guilty too, because they obey not the ordinance of God, that is, the laws, which they ought to obey : Therefore the threatenings which are here set down, do pertain likewise to them." Let all persons therefore, by the severity of this command be moved, not to think the violation of the constitution to be a light sin.

¶ 163. *Zuinglius*, one of the three first reformers, in his *pious and friendly admonition to the republic of the Switzers*, discourtes much of his country's throwing off the yoke of oppression ; and reckons that *St. Paul* was of the same mind, when he said, *But if thou mayest be free, use it rather : Which eternal counsel of God, our valiant ancestors following with undaunted courage, were blessed with wonderful successes, &c.* And in his *Opus Articulorum*, *Art. 40, 41, 42.* he says, *they deserve what they suffer, who lie under oppression, and a great deal more ; they have no wrong done them ; he bids them perish with their oppressor.* He says, *that the dreadful plagues that followed the Jews, Jer. xv. 3, 4. upon account of the wickedness of Manasseh, and the blood which he shed in Jerusalem, were most just punishments, and deservedly inflicted upon that people, because they suffered him to do it, &c.*

¶ 164. *Lucifer de Cagliari* in his book *De non parciendo in Deum delinquentibus* (a book approved by *St. Athanasius*, who calls him a new *Elias*, p. 1068, declares, " That he believed it was lawful to resist kings under the old testament, and also to put them to death in case of idolatry, which, he maintains the *Arrians* were guilty of.

¶ 165.

¶ 165. St. *Austin* speaking of the behaviour of the Christians, towards *Julian*, saith to this effect, " That the christian soldiers served under this infidel emperor, and where their religion was not concerned, made conscience of obeying him ; But where, indeed, it came to the cause of Christ, there they made as much conscience of disobeying him," *Aug. in Ps. 124.*

¶ 166. It was the misery of most of the protestants in other countries, as well as those in *Germany*, in the beginning of their reformation, to fall under oppression, particularly the *French*, *Scotch* and *Dutch* protestants : And it is well known they all defended themselves, and used resistance, which, in *Scotland*, ended in an established reformation of the protestant religion ; in *Holland*, it ended in an absolute freedom, both from the *Popish* and *Spanish* yoke ; and in *France*, ended in a free exercise of their religion, but was soon interrupted by the true *Popish* faith and friendship of a massacre ; so that they were forced to fight all over again, and who are now under the same bondage of tyranny and oppression again. I desire that it may be observed, that neither these *Germans*, *Scotch*, *Dutch*, nor *French* in their first war, ever pretended that their religion was established by law, and thereby made a part of the government of their country, which men by their allegiance are bound to defend ; but they used resistance to repel the violence which was done only to their civil rights, and to the native liberty of their consciences. It were foolish impertinence to cite the authorities of those that were engaged in those resistances ; and it were endless to cite all the foreign divines who looked on, and applauded them, and called them *The Lord's battles.*

¶ 167.

¶ 167. The government of the *Roman* emperors heretofore was absolute and unmixed; they governed at pleasure; they made laws, and unmade them again, and had the sovereign power of life and death, for which reason the christians could with no pretence resist the violence of those times, or defend themselves against the wrongs which were done them. Now, while their condition continued thus, the christians were killed, but did not kill: Notwithstanding, when under *Constantine* the emperor, they were rather for killing, than being killed; and having vanquished several usurpers, and *Lucinius* the emperor, they threw off the yoke of persecution.

¶ 168. If God had commanded the yoke of subjection to the tyrannical will of princes, it is strange that neither of the prophets *Elisha*, or *Elijah*, nor *Azariah*, nor *David*, with his followers, nor the *Jews* under their kings, nor the primitive christians after their religion was established by laws, nor any of the ancient fathers, nor any of the reformed churches, should not have known this doctrine of *absolute passive-obedience* to the will and pleasure of tyrannical princes.

¶ 169. If resisting of the supreme authority be unlawful upon any account whatsoever, then were all those people guilty of rebellion, who in all ages, have resisted, or turned out their evil and destructive kings and governors; then the *Jews* were guilty of this sin, for turning out several of their kings without any appointment from God in scripture. So likewise the primitive christians did involve themselves under the guilt of *St. Paul's* damnation for resisting of their emperors; and likewise, the christians in all ages, who have resisted, or turned out their evil princes
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by turning them out, &c. and then *Athanasius*, (the supposed author of the creed) and those christians with him, did also come under the guilt of St. *Paul's* damnation for approving of *Calaritanus's* book, which, according to the doctrine of absolute *passive-obedience*, was a treasonable and rebellious book; for the incendiaries to rebellion, are as guilty as they that are actually in it.

¶ 170. It is unjust and unreasonable to assert any absolute passive-obedience but to the laws of God, and to the laws of the land, which is most certainly due, and no otherwise. And for any of our nobility, or gentry, &c. who had any hand in the late revolution, to suffer any other absolute passive-obedience to be preached, or any member of either house of the convention-parliament; is to suffer themselves to be called damned rebels and traitors, and the revolution a damned rebellion, and the queen, the bishop of *London*, the dutchess of *Marlborough*, and the lady *Berkley*, damned rebels and traitors, for going to the army in the *North*.

¶ 171. He that lets any person whatsoever destroy him contrary to law, when it is in his power to preserve his life by defending himself, does tacitly consent to his own death, which he is obliged to defend by the law of nature, and therefore is guilty of his own blood, as well as he that destroys him; whereas by defending himself, there can be but one guilty of blood, (which is the invader) in which defence, if he kills the other, his blood lies at his own door; by which it follows that passive-obedience to unjust violence is a sin, but resisting such violence is no sin, but the duty of every man. The first duty which I owe is to God, the second to myself, in preserving

preserving myself, &c. the third to my parent and sovereign, in obeying of them in all things reasonable and lawful.

¶ 172. The doctrine of *passive-obedience*, without reserve, is charging God with as palpable a contradiction as any two things can be, it being diametrically opposite to the law of self-preservation, which is the law of nature, and the decree of the Almighty, which law is sacred, and not to be infringed by any man.

¶ 173. It is not the doctrine of the gospel, or of Jesus Christ, to be passive beyond the laws and customs of the country; this were to make God the author, or approver of all the persecutions, and innocent blood that have been spilt in the world by evil princes and governors. Whereas God never commanded any thing contrary to the law of nature.

¶ 174. All men have both a natural and civil right and property in their lives, until they have forfeited them by the laws of their country.

¶ 175. When the law of a country makes it death to be a christian, then they are to lay down their lives for Christ's sake. This is the only case wherein the gospel requires absolute passive-obedience, when the laws are against a man, and this was the case of the first christians.

¶ 176. The gospel is so far from enslaving us, or divesting us of those rights and privileges which we have already, that it encourages us to procure more liberties and franchises, if we can come honestly by them; read 1 Cor. vii. 21, 22, 23. with Dr. *Hammond's* paraphrase upon them.

¶ 177. St. *Paul* himself was not for absolute passive-obedience, for when the chief captain commanded him to be scourged, he said unto the

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centurian,

centurian, *Is it lawful for you to scourge a Roman uncondemned?* Although it is very plain that he and *Silas*, who suffered with him, had offended as they were accused, and were guilty of breaking the *Roman* laws, by teaching customs which were not lawful for them to receive, or observe; and the magistrates of *Phillippi*, one of the chief cities of *Macedonia*, having put them in prison, and beaten them for it, would afterwards have let them go; but *St. Paul* said, *That they had beaten them illegally, and they would not depart out of prison, and the magistrates came and besought them, and brought them out*, Acts xvi. 12, 36, 37, 39. and xxii. 24, 25.

¶ 178. According to *St. Paul's* exhortation to the *Romans*, all magistrates are the powers that be; (he does not say the supreme powers that be) if *St. Paul* had said the power that is, is ordained of God, it would have inferred only the supreme, because he would then have spoken in the singular number. But he saying, *That the powers that be, were ordained of God*, does imply that all magistrates are those powers; then, according to that saying of *St. Paul*, the lord-mayor, and all the aldermen of *London* (except those few aldermen that are not justices of the peace) and all constables are *St. Paul's* powers. Now all those powers are chosen, *Vox Populi, Vox Dei*: To resist any of these powers in the administration or executing of the laws is a sin, and every sin in its nature is damnable, without repentance and forgiveness of God: Yet these powers may be resisted, prosecuted, and punished, according to the nature of his, or their crimes. Now, can any man say, that these magistrates are ordained of God, or have their power from God, any more

more than that all men are ordained of God, and have their lives and strength from him, which is their power, and in the executing of this power they have power to do good or evil? Before they are chosen magistrates they have no more power than other men, but when chosen, the law is their power, beyond which they cannot go without incurring the penalty thereof.

¶ 179. St. *Paul's* powers, according to our constitution, are the legislative authority of this nation, the *Three estates in parliament assembled*, who are the supreme powers, the powers that be, who have power to make, or annihilate laws, and these powers are as much the ordinance of God, as any powers whatsoever; and if these powers are not St. *Paul's* powers, then there neither is, nor can be any such power, or powers in this nation, that are, or must be irresistible, according to St. *Paul*. To resist these powers in making, or unmaking of laws is a damnable sin: But when these persons are separated from the legislative authority, they are but private persons, except such of those persons that are magistrates, who have no more power than other persons, and are as punishable by the laws of their own making, (the king excepted) as any other person; the chiefest of these powers is the king, because in him is the executive part of these powers, which is the putting the powers of the laws in execution: Now all persons commissioned by him, as the lord chancellor, judges, or any other magistrates, are but the administrators of those powers, which the supreme powers, the legislators have made, which are the laws: Now, if any of these judges, or magistrates, notwithstanding any commission, or pretended commission

on, act contrary to the administration of these powers of the law, they are punishable by law according to the nature of their crime, and are accountable, censurable, and punishable by the legislative powers.

¶ 180. There is more reason to believe that the doctrine of absolute *passive-obedience* is a damnable doctrine, than that resisting the supreme magistrate upon any account whatsoever, is damnable, because that doctrine is inconsistent with those glorious attributes of God, by which we believe him a God of infinite love, mercy and compassion to all mankind, and no respecter of persons, for that doctrine makes him an unmerciful, cruel, barbarous and tyrannical God, in making all mankind, that they may be used as beasts, at the will and pleasure of a few of their fellow creatures, who are but their equals until they make them supreme head or governors.

¶ 181. With what ignorance do some assert, that *Adam* was an absolute monarch? For that the father of a family governs by no other law than by his will and pleasure, and the father is not to be resisted by his child? And that *Adam* had a monarchical, absolute, supreme, paternal power? And that all kingly authority is a fatherly authority, and therefore irresistible? And that no laws can bind the king, or annul this authority? How could *Adam* be an absolute monarch when God gave him the herbs but in common with the beasts? *Gen. i. 29. 30.* Can it be thought that God gave him an absolute authority of life and death over man, who had not authority to kill any beast, to satisfy his hunger, as was permitted to *Noah* and his sons? *Gen. ix. 5.* where God says, *Every moving thing that moveth shall*

shall be meat for you, even as the herbs have I given you all things. Is it not as reasonable to believe, that God would have cursed *Adam*, if he had killed his son *Abel*, as *Cain* for killing him? *Cain* was very sensible every one had, by the law of nature, a right to kill him for being guilty of blood, when he said, *Every one that found him, should slay him*, Gen. iv. 14. God made no exemption to the greatest man living, who should be guilty of innocent blood, when he said, *He that sheddeth man's blood, by man shall his blood be shed*. Gen. ix. Neither *Noah* nor his sons were exempted from this great law, and therefore could have no absolute authority: Since God has nowhere given any man such authority, there can be no such lawful authority; for the community cannot make themselves slaves by investing such an authority in any man: Should they do it, it is not binding, it being a sin against the law of nature, which is the law of God, which makes all men equal, and no men slaves.

¶ 182. The first fathers of mankind after the flood, had not the exercise of royal power; and whatsoever they had was equally devolved to every one of their sons, as appears by the examples of *Noah*, *Shem*, *Abraham*, *Isaac*, *Jacob*, and their children. The first king we read of in scripture, was *Nimrod*, king of *Babylon*, the sixth son of *Chush*, the son of *Ham*, *Noah's* youngest and accursed son. This kingdom was set up about one hundred and thirty years after the flood, who was chosen by the people, or else he could not have been king, for *Chush*, *Ham*, with his elder brother, and his father *Noah*, were then living, who were not kings.

¶ 183. If *Noah* was heir to *Adam*, I ask which of *Noah's* sons was heir to him? For, if by right it descended to all his sons, then it must have descended to all their sons, and so on: If so, then are all men become equal and independent, as being the offspring of *Adam* and *Noah*: If it descended only to the eldest, and so on, then there can be but one lawful monarch in the world, and who that is, is impossible to be found out; so that paternal monarchical authority, take it which way you will, it comes to nothing at all.

¶ 184. *Where human institution gives it not, the first born has no right at all above his brethren; as the bishop of Exon acknowledges.*

¶ 185. *If a government, say some, may be disturbed for any unlawful proceedings of the governor, or his ministers, how can any government be safe? To which I answer, that it is not lawful for a few persons to oppose their prince, and it is impossible for one, or a few oppressed men to disturb the government much, where the body of the people do not think themselves concerned in it, and that the consequences seem not to threaten all; yea, when it does, yet in matters of lesser moment the people are not very forward to disturb the government, as in king *Charles* the second's time, when the charters were condemned, and seized upon, in order to make us slaves, and the laws perverted to the loss of many innocent lives, and the gaols filled with dissenters for worshiping God according to their consciences, and many other oppressions, too many to insert; and yet they did not send for a foreign power, nor rise against the government, nor preach sedition though their persecution was much greater than against the church in king *James's* reign.*

reign. I say, until the mischief be grown general, and the designs of the rulers become notorious, then, and then only, will the people be for righting themselves.

¶ 186. Whosoever, either ruler, or the subject, by force goes about to invade the rights of either prince or people, and lays the foundation for over-turning the constitution and frame of any just government, he is guilty of the greatest crime, I think a man is capable of, being to answer for all those mischiefs of blood, rapine and desolation, which the breaking to pieces of government brings on a country; and he who does it is justly to be accounted one who resists the ordinance of God, and the common enemy and pest of mankind.

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The Character of King CHARLES the First, and his Government; taken from my Lord CLARENDON'S History of the Civil Wars, the First Vol. in Folio; and out of RUSHWORTH'S Collections, the First Vol. in Folio; and out of WHITELOCK'S Memorials, in Folio: Without any Observations, or Reflections.

¶ 187. **C**LARENDON, p. 6. In the second parliament there was a mention and intention of granting five subsidies, but that meeting was dissolved upon very unpopular and unplaufible reasons; and those five subsidies were enacted throughout the whole kingdom, with the same rigour, as if an act had passed to that purpose. Divers gentlemen of prime quality, in several counties, for refusing to pay the same, were committed to prison with great rigour, as if an act had passed to that purpose. And yet all these provocations, and many others of almost as large an extent, produced no other resentment in the third parliament, than the petition of right, (of no prejudice to the crown) which was purchased at five subsidies; but in a short time after granted, was dissolved. The dissolution of the two first parliaments was wholly imputed to the duke of Buckingham, and the third to the lord Weston, lord-treasurer: At the time of those dissolutions, some charges and accusations were preparing against them.

Page 53. Supplemental acts of state were made to supply defects of laws, and so *tonnage* and *poundage*, and other duties upon merchandizes were collected, and new and greater impositions laid upon trade. The king raised a vast sum of money upon the law of *Knighthood*; and no less unjust projects of all kinds, many ridiculous, many scandalous, all very grievous, were set on foot; great fines on *Forest* laws. But, for an everlasting supply of all occasions, instead of a ship of war, which every county was ordered to provide by such a day, &c. the sheriff was to raise so much money, by which, for some years, came to the king's coffer two hundred thousand pounds *per annum*.

For the better support of these extraordinary ways, and to protect their agents, the council-table and star-chamber enlarged their jurisdiction to a vast extent, holding for honourable, that which pleased, and for just that which profited.

Page 54. There were proclamations, enjoining the people what was not enjoined by law, and prohibiting that which was not prohibited; the offenders thereof were imprisoned, and fined with very great fines, and those foundations of right by which men valued their security, to the apprehension and understanding of wise men, were never more in danger to be destroyed.

¶ 188. *Rushworth*, p. 418. King *Charles* the first raised money by way of a general loan; he that was rated in the last subsidy book at 100*l.* in goods, was to lend one hundred marks; and he that was rated one hundred pound in land, was to lend one hundred pounds in money; and so proportionable for a greater or a lesser sum.

Page 422. Several of *St. Clement Danes*, the *Savoy*, the *Dutchy*, and other parts within the liberties of *Westminster*, for refusing to subscribe the *loan*, were, by order of council to be prest, to serve in the ships, ready to go out in the king's service, and the non-subscribers of high rank, in all the counties, were bound to appear before the council-table, who committed divers of them to prison, and the common sort to be listed among the soldiers. Sir *P. Hayman*, for refusing the loan, was sent into the king's service in the *Palatinate*.

Page 423. Dr. *Manwaring*, in two sermons before the king and court at *White-hall*, delivered for doctrine, to this purpose, viz. *That the king is not bound to observe the laws of the realm, concerning the subjects rights and liberties; but that his royal will and command, in imposing loans and taxes without common consent in parliament, doth oblige the subject's conscience, upon pain of eternal damnation: That those who refused to pay this loan, offended against the supreme authority, and became guilty of impiety, disloyalty and rebellion. And, That the authority of parliament is not necessary for the raising of aids and subsidies: And, That the slow proceedings of such great assemblies were not fitted for the supply of the states urgent necessities, but would rather produce sundry impediments to the just design of princes.*

Page 411. Archbishop *Abbot* refusing to licence Dr. *Sibthorp's* sermon (which was much to the same purpose as *Manwaring's*) was sequestered from his office.

Page 474. The king gave direction for a commission to raise monies by impositions, in nature of an excise, to be levied throughout the nation; and

and ordered the Lord treasurer to pay thirty thousand pounds to a *Dutch* merchant for raising one thousand horse, with arms both for horse and foot, which was supposed to enforce the excise.

Page 612. Those horses were raised, and were to come over ; but a parliament being quickly after called, they were countermanded, and afterwards disposed of to the king of *Sweden*, and duke of *Savoy*, p. 637.

¶ 189. In *Whitelock's* Memorials, in folio.

Page 1. The Vantguard, and seven other *English* ships, were lent to the king of *France*, and employed against *Rochel* ; the mariners refused the service : *Buckingham* was acquainted with it, but not the body of the council. The protestants of *France* solicit our king against it, but he expressly commands the vice-admiral *Pennington* to do it, which he obeyed.

Page 3. The commons began to fall upon the public grievances : The king sent a smart letter to the speaker. To this the commons returned a general answer, promising a supply ; the king said, *I will not allow any of my servants to be questioned among you, much less such as are of eminent place, and near unto me. I see you especially aim at the Duke*, meaning the Duke of *Buckingham*, whom they had charged with many high crimes and misdemeanors.

Page 7. The privy council advised the king to take *tonnage* and *poundage*. A commission issued to compound with *recusants*. The king required a loan of money, and sent to *London*, and the port-towns, to furnish ships for guard of the seas.

seas. The deputy lieutenants, and justices of *Dorsetshire*, excused themselves, and said, *The case was without precedent.* London was rated at twenty ships, but desired an abatement to ten, and two pinnaces; the council denied it; and said, *The precedents in former times were obedience and not direction.* Commissions issued out for musters; and power of martial law was given.

Page 8. To the imposing of loans, was added the billeting of soldiers; martial law was executed; and the soldiers committed great outrages. Some who refused to lend money to the king, were forced to serve in the king's ships, then going forth; and the refusers in the country, were some of them committed, and the meaner sort pressed to serve as soldiers. Dr. *Sibthrop* published a sermon, preached by him to promote the king's affairs, wherein he delivered his opinion, *That the king might make laws, and do whatsoever pleaseth him.* Dr. *Manwaring* preached the same divinity, and highly against the power of parliaments. The queen was made to walk to *Tyburn* on penance, by her popish priests.

Page 9. A commission of *excise* was granted, and monies disbursed for the raising of *German* horse.

Page 10. The fleet under the command of the earl of *Denbeigh*, sailed to *Roche*, and finding there some *French* ships, would not assault them, though fewer and weaker than themselves by many degrees; but after shewing themselves only, they returned and left *Roche* unrelieved.

Page 11. *Manwaring's* books were suppressed by proclamation. Dr. *Manwaring* (though disabled by sentence) was pardoned, and preferred to a good living. Some merchants were committed

mitted for not paying *tonnage* and *poundage*, according to the king's declaration. It was resolved in council beforehand, to justify these proceedings, when the parliament should meet; and if the parliament did not pass the bill for *tonnage* and *poundage* then to break it. The parliament met, (*Jan. 20. Car. 3.*) and found the petition of right to be printed with some additions; and the copies first printed without the additions, were suppressed by the king's order.

Page 12. The order of the council for levying of *tonnage* and *poundage*, was read in the house. The speaker being called upon to put the question proposed, said, *He drust not, for that the king had commanded the contrary.* Warrants of the council were issued for *Hollis, Selden, Hobert, Elliot*, and other parliament-men, to appear before them; *Hollis, Curriton, Elliot*, and *Valentine* appeared, and refusing to answer out of parliament, for what was said and done in parliament, they were committed close prisoners to the Tower; and a proclamation for apprehending others was published, and some of their studies were sealed up. These warrants were dated the fifth of *March. Car. 3. 1628.*

Page 15. The *papists* in *Ireland* grew into great height; monasteries were there erected, *papists* frequented their public meetings and masses, with as much confidence, and as often as the protestants did their churches.

Page 37. The house of commons voted, 1. *That the charge of ship-money was against the law, the subject's right and property, and contrary to former resolutions in parliament, and to the petition of right.* 2. *That the extra-judicial opinion of the judges, was against the law, &c. ut prius.* 3. *That*
ship-writs

ship-writs were against law. 4. That the judgment in Mr. Hampden's case, about ship-money, was against law, &c. the house of lords passed the same votes ; and the next day a committee was appointed to draw up a charge of treason against such as had been abettors therein, the lord keeper Finch, and all the rest of the judges.

Page 50. The king gave a warrant to repair to the lodgings, and to seal up the trunks, studies and chambers of the lord Kimbolton, Mr. Pym, Mr. Hampden, Mr. Hollis, Sir Arthur Hesilridge, and Mr. Stroud, members of parliament, which was done, but their persons were not met with.

Page 51. The five members received a secret notice of this intended action, whereby they got out of the house just before the king came ; otherwise, it was believed, that if the king had found them there, and called in his guards to have seized them, the members of the house would have endeavoured the defence of them which might have proved a very unhappy and sad business ; and so it did, notwithstanding that was prevented. This sudden action being the first visible and apparent ground of all our following miseries.

¶ 190. Dr. Sacheverell, in his sermon preached at St. Paul's on the fifth of November, 1709, in order to blacken the revolution, does falsely assert, in his quarto sermon, p. 12. and in his octavo sermon, p. 13. That *the king himself solemnly disclaimed the least imputation of resistance in his declaration ; and that, the parliament declared, that they set the crown on his head, upon no other title, but that of the vacancy of the throne.*

In

In order to undeceive the world, I have here set down the 25th paragraph of the prince's declaration, viz. *We do in the last place invite and require all persons whatsoever, all the peers of the realm, both spiritual and temporal, all lords, lieutenants, deputy lieutenants, and all gentlemen, citizens, and other commons of all ranks, to come and assist us, in order to the executing this our design, against, all such as shall endeavour to oppose us; that so we may prevent all those miseries which must needs follow upon the nation's being kept under arbitrary government and slavery; and that all the violences and disorders which have overturned the whole constitution of the English government, may be fully redressed in a free and legal parliament.* And the falsity of the doctor's other assertion, about the vacancy of the throne, may be seen by the vote of both houses of parliament, in page 98 of this book.

See a little more of the doctor's sincerity, how he wrests the scripture to serve his purpose, and insinuates that the church is in danger, notwithstanding both houses of parliament had voted it out of danger, during the life of her majesty. In the 20th page of his octavo sermon, he saith, *That the prophet Elisha's servant did not see his master's danger until his eyes were opened by miracle, and he found himself in the midst of chariots and horses of fire.* Whereas it is plain from the text, 2 Kings vi. 15, 16, 17, that the prophet's servant was sufficiently alarmed at his master's danger, by an army of Syrians, and could not be rid of his fear until his eyes were opened by miracle to see the chariots and horses of fire, which heaven had sent to defend him. With what face can the doctor complain of others for villanously

ously dividing us with knavish distinctions, when in his own sermons, he abuses all those who are not of his way, both church-men and dissenters, by calling them, *neutralists in religion, a secret sort of reserved atheists ; wretched, empty, hypocritical sophisters ; impudent, boasting, self-conceited enthusiasts ; sceptics, sly-saints, gallios, canting fellows, incendiaries, men of villanous and seditious principles ; filthy dreamers ; presumptuous and self-willed men ; despisers of dominion and government, a brood of vipers, regicides, infidious, treacherous and false-hearted knaves, pagan beasts, unhallowed, loathsome and detestable guests, scandalous trimmers, innovators, headstrong, encroaching monsters, eccentric comets, growing mischiefs, infectious plagues, the worst of dæmons, conformists in profession, half conformists in practice, and non-conformists in judgment ;* and much more of the doctor's Billinggate, I could quote, but for brevity's sake I omit.

F I N I S.



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